

**KENTUCKY**

Spring 2012 | Volume 11, Number 1

# LAW ENFORCEMENT



**PROTECTING**  
*Kentucky's*  
**SENIORS**

page 40

# LAW ENFORCEMENT CONTENTS

**Steve Beshear**  
Governor

**J. Michael Brown**  
Justice and Public Safety  
Cabinet Secretary

**John W. Bizzack**  
Commissioner

**Kentucky Law Enforcement** is published by the Kentucky Justice and Public Safety Cabinet, and is distributed free to the Kentucky law enforcement and criminal justice community.

**STAFF:**

Dave Wilkinson, Editor  
Diane Patton, Coordinator  
Trang Baseheart  
Abbie Darst  
Kelly Foreman  
Jim Robertson

**CONTRIBUTOR:**

Edliniae Sweat  
Elizabeth Thomas

Cover photography by  
Jim Robertson



This publication is produced quarterly as a training and marketing tool for the Kentucky law enforcement community as well as public officials and others involved with law enforcement or the oversight of law enforcement. It includes best practices, professional profiles, technology and law updates of practical application and new-to-use for professionals in the performance of their daily duties.

PRINTED WITH STATE FUNDS

PAGE NUMBERS

## COLUMNS

**5** Justice and Public Safety Cabinet Secretary  
J. Michael Brown

**6** Dept. of Criminal Justice Training Commissioner  
John W. Bizzack

**FACILITATION CENTER HELPS OFFICERS THINK OUTSIDE THE BOX**

**KLEC PRESENTS CDP CERTIFICATES**

## BRIEFS

**NEW**

**EVERYDAY HEROES: OFFICER JASON WOODSON**

5

8

12

14

16

24

26

**SMALL TOWN AGGRESSIVE**



## FEATURE

**FIRST, DO NO HARM**  
Pill mills reaching into Kentucky communities, touching everyone



Address all correspondence to: KLE Staff, Funderburk Building  
521 Lancaster Avenue, Richmond, KY 40475 | [DOCJT.KLENN@ky.gov](mailto:DOCJT.KLENN@ky.gov)



**STRANGE STORIES FROM THE BEAT**

**BOOK REVIEW: THE DEAD STROLL**

**FEATURE PROTECTING KENTUCKY'S SENIORS**

- 42** Policing an Aging Population
- 48** Exploiting the Vulnerable
- 52** Abusing the Aging
- 56** Elder Abuse: The Investigation Process

**IN THE SPOTLIGHT**

- 76** Sheriff Gus H. Skinner, Jr.
- 77** Capt. George Atwood

**DEFINE USE OF FORCE**

**32      40      60      63      64      70      76      78      79**

**NEW MEMBERS APPOINTED TO THE KENTUCKY LAW ENFORCEMENT COUNCIL**



**FEATURE JUSTICE FOR THE AGING**  
Profile of Attorney General's Office Investigator Nikki Henderson with the Office of Medicaid Fraud and Abuse Control

**QUALIFIED IMMUNITY AGAIN DENIED IN RECENT KENTUCKY CASE**



**FEATURE SEARCH FOR TRUTH**  
The case for polygraph examination in Kentucky

➤ The Kentucky Law Enforcement staff welcomes submissions of law enforcement-related photos and articles for possible submission in the magazine and to the monthly KLE Dispatches electronic newsletter. We can use black and white or color prints, or digital images. KLE news staff can also publish upcoming events and meetings. Please include the event title, name of sponsoring agency, date and location of the event and contact information.



# SUPPORT OUR FAMILIES IN TIMES OF NEED

[www.klemf.org](http://www.klemf.org)



## Secretary's Column

# Budget Proposal Ensures Safety of Public, Future of Law Enforcement

J. MICHAEL BROWN | SECRETARY, JUSTICE AND PUBLIC SAFETY CABINET

While there are some signs that the historic recession of the past decade is finally loosening its grip on our economy, the budget address presented in mid-January by Gov. Steve Beshear indicated Kentucky would likely endure another two years of economic hardship.

Still, even within the confines of a budget he termed "inadequate," Beshear presented a plan that maintains a commitment to his top priorities, including public safety.

Most notably, the agencies under the Justice and Public Safety Cabinet were spared egregious cuts, with most areas taking a 2.2 percent reduction in fiscal year 2013, and maintaining that as a baseline in fiscal year 2014.

The proposal shielded law enforcement agencies from the worst of the budget pain by limiting their cuts to 2.2 percent as well, including state police, prosecutors and the juvenile justice system.

I take no pleasure in heading one of the "spared" agencies — departments throughout state government must figure out how to deliver their critical services with much deeper cuts. But, I'm mindful that the budget reflects the governor's continued emphasis on ensuring the safety and protection of the commonwealth and its citizens.

The budget proposal does that in numerous ways.

The governor recommended making all Peace Officer Professional Standards-certified officers throughout the state eligible for an annual training stipend.

Funded through a premium on insurance policies, the Kentucky Law Enforcement Foundation Program Fund provides a \$3,100 annual incentive stipend to encourage and compensate officers for receiving training in the constantly evolving field of law enforcement.

The recommendation will bring into the fund 185 officers and investigators with the Attorney General's office, Department of Agriculture, Alcoholic Beverage Control and the Kentucky Horse Racing Commission, among others. Another 124 officers in the Department of Fish and Wildlife Resources also

are proposed to be included in the stipend, although from a dedicated revenue stream separate from KLEFPF.

The budget, as proposed by Beshear, also recognizes that the success of House Bill 463, the Public Safety and Offender Accountability Act, depends largely on maintaining course with planned expenditures.

This landmark legislation, which was championed by a bipartisan, multi-disciplined team and received near-unanimous approval from the General Assembly, is designed to decrease the state's prison population, trim incarceration costs, reduce crime and improve public safety.

To that end, the governor's budget recommends investing \$6 million in drug treatment programs in fiscal year 2014, and includes hiring additional pre-trial and parole officers to increase supervision of inmates as they re-enter society. It also commits nearly \$9 million during the biennium to the Local Corrections Assistance Fund, for things like treatment programs, training, equipment and facility upgrades.

The budget sets aside \$2 million in bond funds to make improvements to the new state police training academy that was created last summer by the closing of a state prison. The funds will begin the process of modernizing the complex so that Kentucky State Police and eventually other law enforcement groups will be trained in the most state-of-the-art facility possible.

Clearly, the recession will continue to require painful cuts across all state government agencies and functions, and departments responsible for criminal justice services are not excluded. But I am confident that, despite this, the law enforcement professionals in this commonwealth will continue to carry out their crucial duties with dedication and determination. 🍷



## Commissioner's Column

# Forecasting the Future of Policing

JOHN W. BIZZACK | COMMISSIONER, DEPARTMENT OF CRIMINAL JUSTICE TRAINING

In February 2008, The National Intelligence University, Office of the Director of National Intelligence and the Center for Strategic Leadership, U.S. Army War College, released a report entitled, “55 Trends Now Shaping the Future of Policing.” This report provides national security officials, law enforcement agencies, think tanks, and academic institutions from across government and the private sector with keen insights into key trends that will influence both crime and the police who will be held responsible for controlling crime and its influences.

The goal was to analyze the trends that will affect policing in the United States and project their impact over the medium-term future, thus making it more possible to anticipate changing demands for police service, future staffing and budgetary requirements.

The report should be required reading for police executives and those who plan to become executives in the future. Here’s a summary.

There is no way to anticipate exactly how policing will evolve throughout the 21st century. The changes we can anticipate in the next decade — from energy issues to the economy — are enough for anyone to deal with; policing becomes particularly troublesome. Many of the future’s most important changes will require unusual responses from the law enforcement community and many of those adaptations may be difficult for institutions as conservative by nature and inclination as police agencies — and as dependent on public funds.

Obviously, a variety of forces will affect the future of policing including new technologies, demographic changes, evolving values, and continuing concerns over the threat of terrorism.

The obvious benefits for policing all come from a single source. As we have already seen, technology will make law enforcement both more efficient and more demanding. In the near future, officers will gain access to a wealth of information unavailable today, such as still and video images of most urban areas in the country. At first, these will be useful mostly for forensic reconstruction of crimes, but artificial intelligence systems eventually will analyze the images in real time and notify their human colleagues of crimes in progress. At the same time, these and other automated systems will take over much of the traditional traffic-enforcement role, freeing personnel for other duties. Police agencies also will have virtually

unrestricted access to the Internet, to national and international criminal databases, and to all manner of computerized data with little or no delay.

Combined, all of this will make it easier to ensure public safety and respond effectively to all manner of crime.

However, efficiency will come at a cost. In fact, there will be more than one price to pay. For example, criminals also will have access to some high-tech tools. The most important may be virtually unbreakable cryptography, which will make business records impossible to read and telephone calls and e-mail impossible to decipher. Eventually, only amateurs will leave documentary evidence of their crimes.

At the same time, near universal surveillance may be uncomfortable for some departments whose personnel are accustomed to relative autonomy. There have been many incidents in which police misconduct has been caught on the cell phone camera of a passer-by. In the future, these misdeeds also will be caught on urban video surveillance systems. This can only be rated a net positive if the threat of observation improves the professionalism of some departments.

Other changes coming to law enforcement will result from newly surfacing trends, specifically new demands for service, staffing problems, and — inevitably — tighter budgets.

As the American population changes, growing both older and more diverse, police and related agencies will see more of the familiar demands for help with problems that beset the aged. These include fraud, elder abuse, robbery and random violence. (See p. 40). However, less familiar problems also will proliferate. We already have seen the consequences of immigration, both legal and undocumented, from Latin America in the conflicting demands of community policing and border enforcement. Many more such problems lie ahead.

Yet, some of the most difficult challenges are likely to create problems in more mundane areas, such as staffing. New, high-tech policing will make much greater demands on the officer’s basic education and professional training. So will the growing need for skill with foreign languages and cultures. Personnel capable of mastering the necessary skills will be in demand from private industry, offering better pay and less stressful working conditions. This can only drive up the cost of hiring and training law enforcement personnel. It also may encourage departments

to share their specialists and to outsource some duties to consultants or private companies, even where sworn officers are required. These changes will be even more magnified for departments whose jurisdictions are gaining population and thus require more officers.

At the same time, ongoing operations in the war on terror means the military will compete for recruitment-age young men and women who otherwise might choose a career in law enforcement. The Army already has been forced to relax its standards and to offer substantial enlistment bonuses in order to recruit enough manpower. Law enforcement would find it difficult to make similar adjustments.

Not only are recruits likely to be harder to attract, they will be different from those of previous generations. Generations X and Y and the Millennials display a number of uncomfortable characteristics that seem to grow more powerful with each cohort including a mistrust of authority that the Boomers abandoned as soon as they gained authority themselves; a laudable, but often ruthless, determination to accomplish whatever job they take on; an absolute commitment to their own bottom line, combined with today's lack of loyalty to employers and unrestrained acceptance of diversity in all things. Motivating and retaining such recruits will not be easy.

Nor will it be easy accepting the practical changes that these values imply. More recruits are likely to be in committed relationships outside marriage and expect spousal

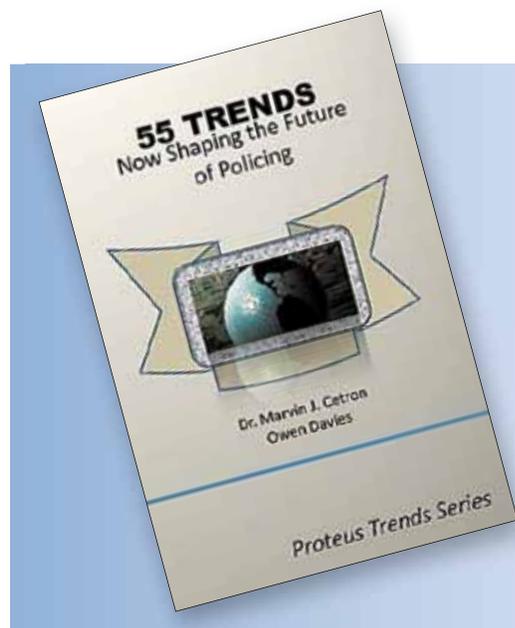
benefits for their partners. More will demand leave for new fatherhood. Such changes will be difficult but necessary for fundamentally conservative institutions, like law enforcement, to accept.

Finally, new technology, better pay and benefits, and new duties all cost money, a resource that will be hard to come by. In a period of tight public budgets, law enforcement agencies will be forced to compete for funding with other government services, including the military, making it difficult to obtain new equipment or take on necessary new functions... Police departments and ancillary agencies will find themselves continually playing catch-up with the demands placed on them. But this, at least, is one aspect of the future that most will find all too familiar.

These are just a handful of the challenges that today's trends are predicting for tomorrow's law enforcement agencies. However, technology, demographics, and changing values will be the three primary issues facing the police community in the near future.

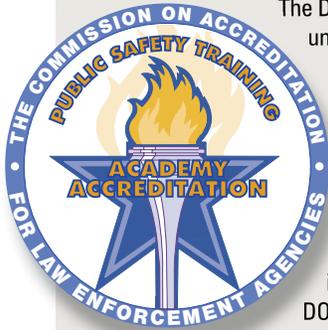
To help cope with the coming changes, police forces and other law enforcement agencies must begin to prepare now. 🗨️

*John Biggack*



Scan this QR code with your smart phone or go to <http://www.au.af.mil/au/awc/awcgate/army/proteus-55-policing.pdf> to read this report online.

## DOCJT Receives Fourth CALEA Reaccreditation



The Department of Criminal Justice Training underwent its third Commission on Accreditation for Law Enforcement Agencies, Inc. reaccreditation On-Site Assessment Jan. 9 through 12.

The assessment consisted of interviews, observation of facilities and activities, and thorough review of proof-of-compliance files. The

interviews conducted were with DOCJT personnel, basic training and professional development students, and recent graduates of basic training. Correspondence

and calls were received by the assessors from chiefs, sheriffs and other law enforcement executives across the state.

In their exit interview, the assessors concluded and reported that DOCJT was in full compliance with all applicable CALEA standards, and they were impressed with the candor and professionalism of DOCJT's staff and students.

A final and more detailed report will be available in late March, following the commission's annual conference, where reaccreditation status will be formally announced.

## Law Enforcement Fatalities Rise Sharply for Second Straight Year

For the second straight year, law enforcement fatalities nationwide rose sharply with 173 federal, state and local officers killed in the line of duty during 2011, according to preliminary data compiled and released by the National Law Enforcement Officers Memorial Fund. This represents a 13 percent increase over the 153 officers killed in 2010 and an alarming 42 percent spike when compared to the 122 officers who lost their lives in the line of duty in 2009. The primary cause of death in 2011 was gunfire, which claimed the lives of 68 officers and nearly matched the decade-long high of 69 firearms-related deaths in 2007.

In 2011, the number of officers killed on the roadway dropped by 10 percent, formerly the prime cause of law enforcement fatalities. During the past year, more officers were killed in Florida than in any state. On average, the officers who died in 2011 were 41 years old and had served for 13 years.

## 2012 KLEMF Golf Tournament Scheduled for June 11

The Kentucky Law Enforcement Memorial Foundation's annual golf tournament will be conducted on June 11 at the Gibson Bay Golf Course in Richmond, Ky.



For more information or to sign up for the tournament, please contact Pam Smallwood at [pam.smallwood@ky.gov](mailto:pam.smallwood@ky.gov) or (859) 622-8081.

## GRANTS ANNOUNCED

### Gov. Beshear Announces \$4.1 Million in Homeland Security Grants

In November 2011, Gov. Steve Beshear announced \$4.1 million in state homeland security grants for 125 projects across the commonwealth. The funding supports 911 programs, mobile computers and radios, bomb detection devices and first-responder training.

"These projects will strengthen the effectiveness of our first responders as they execute their important mission of protecting Kentuckians when natural and man-made disasters strike," Beshear said. "I am confident that this allocation of federal dollars has been maximized to help keep citizens safe and secure."

In addition, non-discretionary grant funds provided to Kentucky include \$536,386 to Metropolitan Medical Response Systems for Louisville Metro and Lexington-Fayette County, and \$157,802 for the Kentucky Citizen Corps Program. The Citizen Corps Program works with communities around the state to prevent crime and respond to emergencies.



The approved grants can be viewed at [www.homelandsecurity.ky.gov/gp](http://www.homelandsecurity.ky.gov/gp), or scan this QR code with your smart phone.



## Juvenile Justice Commissioner Ron Haws Retires, Hasan Takes Place

Department of Juvenile Justice Commissioner Ron Haws retired Dec. 31, 2011 after nearly four years of service with DJJ.

"In the best of circumstances, the mission of our juvenile justice system is carried out in delicate, often wrenching conditions," said Justice and Public Safety Cabinet Sec. J. Michael Brown. "With the economic downturn and the challenges that places on families and the commonwealth, we've not had the luxury of operating in the best of circumstances. Commissioner Haws has skillfully navigated the department through these rough waters, and leaves a solid course of providing rehabilitation to the young people entrusted to our care."

A. Hasan Davis, the former deputy commissioner in charge of operations for DJJ, was named acting commissioner, effective Jan. 1. A 1992 graduate of Berea College, Davis also holds a Juris Doctor from the University of Kentucky College of Law.

"Hasan's diverse background in working with young people and his experience overseeing the operation of the department make him the natural choice to assume this role," Brown said. "He brings exceptional talent and experience to this critical area."

## KENTUCKY STATE POLICE



This portrait of Kentucky State Police Trooper Donald Crawford, Post 1, taken by wife Stacy Lynn Crawford, won first place in a KSP photography contest, which raised money for the 2011 Kentucky Employees Charitable Campaign. Photo submissions were solicited from Justice and Public Safety Cabinet employees and their families, citizens' academy alumni and retired KSP troopers. Photos from all over the state were received and evaluated by a panel of judges for photographic quality and creativity. Second place went to KSP Commissioner Rodney Brewer and third place to KSP Administrative Specialist Debbie Fisher. This winning photograph will be permanently displayed at the new KSP Academy in Frankfort.

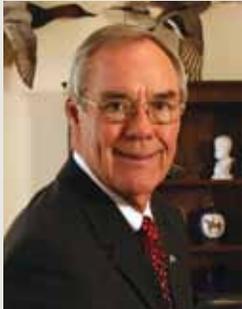
### KSP Trooper Receives Belated Award

Gov. Steve Beshear joined the Kentucky State Police in giving a long overdue honor to one of their own on Dec. 19. Tpr. Stewart (Glen) Franklin was presented with the Guthrie Crowe Award. This award, named after the first KSP commissioner, is bestowed upon KSP troopers who have sustained a severe wound or injury while serving in the line of duty.

The honor stems from a 1972 incident in Franklin County when Franklin was involved in an undercover arrest of a bootlegger. During the arrest, Franklin was shot at close range with a .22 caliber revolver causing permanent paralysis to his lower extremities. Franklin remains paralyzed to this day, using a wheelchair for mobility. Franklin was assigned to KSP Post 12 in Frankfort at the time of the incident. Franklin graduated from the KSP Academy Cadet Class 77 in February of 1972. He had been on the job for 10 months before being injured.



## Geveden Retires from Justice and Public Safety Cabinet



Charles Geveden retired as Justice and Public Safety Cabinet deputy secretary on Dec. 31, 2011, after four years of service to the cabinet. Geveden's successful career in public service dates to the early 1970s when he served as a commonwealth's attorney in Kentucky's first district. Throughout the 40 years since, Geveden has held numerous positions supporting Kentucky's justice system,

including serving 17 years with the General Assembly. In 1996, he sponsored and worked toward the creation of Kentucky's Department of Juvenile Justice, which became a model for other states on how to effectively deal with juvenile offenders.

"Charlie brought a number of strengths to this position, and provided expertise in several crucial areas," Justice and Public Safety Cabinet Sec. J. Michael Brown said. "In particular, his relationship with members of the legislature, and his background as a commonwealth's attorney gave him practical insight into local prosecution and corrections issues, both of which have been highly beneficial throughout the past four years."

## Law Enforcement Officers, Agencies Honored for Impaired Driving Enforcement

In December 2011, the Kentucky Office of Highway Safety honored 201 law enforcement officers from 185 agencies across the commonwealth for their efforts to target impaired drivers during the 2011 Governor's Impaired Driving Enforcement Awards ceremony.

Awards were presented to officers with the most impaired driving arrests in each agency and division.

"The decision to drive impaired is not only illegal, but reckless and irresponsible behavior," said KSP Commissioner Rodney Brewer. "Law enforcement officers know that for every drunken driver that is removed from the road, it is potentially one less tragedy some family will have to face."

The following were awarded first place in his or her division:

- Eminence Police Officer Phillip Parham
- Middlesboro Police Officer Barry Cowan
- University of Louisville Police Officer Jordan Brown
- Paducah Police Officer Nathan Jaimet
- Louisville Metro Police Officer Ronald Fey
- Kentucky State Police Trooper Eddie Whitworth

## INSTRUCTOR OF THE YEAR

### DOCJT Awards Outstanding Employee Contributions

In December 2011, the Department of Criminal Justice Training recognized its outstanding employees and their accomplishments over the past year. Four top awards were given for Instructor of the Year, Administrative Person of the Year, Teamwork and the Commissioner's award.

Kelley Calk, Legal Training Section Staff Attorney, was named Instructor of the Year for 2011. Calk has served DOCJT for nearly nine years. Prior to coming to DOCJT, she worked for the Fayette County Attorney's Office, dealing primarily with domestic violence cases. She rolled that experience right into her position at DOCJT.

"Ms. Calk's dedication goes beyond merely instructing the law; she is dedicated to the principle that students not only hear the law, but also are able to find and apply the law to given scenarios," said Legal Training Section Supervisor Gerald Ross.



Kelley Calk

Anna Hudgins was named Administrative Person of the Year. Hudgins, who administratively serves the more than 2,300 law enforcement officers for the on-line Intoxilyzer 5000 and 8000 courses in the DUI Enforcement Section, was recognized for her outstanding performance.

Jack Dyer was awarded the Commissioner's Award for his nearly nine years of service to DOCJT. Though only part-time, Dyer serves in the role of senior executive consultant for the agency, and is not only called upon by the executive staff for counsel, but also is often contacted by fiscal staff of state agencies for advice in how to interpret their policies.

The DOCJT Teamwork Award was given to Ellan Gantz, Supply Branch; Richard Putnam, Information Systems Branch; Scott Saltsman, Basic Branch; and David Stone, Supply Branch, for their work on a computer-aided management program that enhanced the operations of DOCJT and its ability to schedule the use of training resources and residence hall dormitory rooms.



Anna Hudgins



Jack Dyer

## NEW CHIEFS

### **CECIL BARD**

#### **Powderly Police Department**

Cecil Bard was appointed chief of the Powderly Police Department on Jan. 1, 2011. Bard began his law enforcement career with the Greenville Police Department and has 16 years of law enforcement experience. He graduated from the Department of Criminal Justice Basic Training Class No. 241. Bard plans to add more staff, seek grant money to enhance the department and to implement a town hall meeting to address the concerns of the community. Bard looks forward to building on the great working relationship he has with the Kentucky State Police and the surrounding departments.

### **JEFFREY COX**

#### **Audubon Park Police Department**

Jeffrey Cox was appointed chief of the Audubon Park Police Department on Dec. 11, 2011. Cox began his law enforcement career in 1996 with the Department of Corrections. During his law enforcement career, Cox also served the West Point and Brandenburg police departments. He graduated from the Department of Criminal Justice Basic Training Class No. 270. Cox plans to implement the DOCJT Career Development Program, and continue seeking reaccreditation through KACP and the strong work already done by the former chief to see the agency grow.

### **CLAUDE CREECH**

#### **Cumberland Police Department**

Claude Creech was appointed chief of the Cumberland Police Department on Jan. 9. Creech has 36 years of law enforcement experience. He began his law enforcement career as chief of Cumberland Police Department, serving 1976 to 1979. He served as a Kentucky park ranger for a year. Creech also has served as captain of the Harlan County Sheriff's Office. His goals are to implement department policies and procedures, increase manpower and move the department forward and provide the best services possible.

### **TIM HAZLETTE**

#### **Campbellsville Police Department**

Tim Hazlette was appointed chief of the Campbellsville Police Department on Dec. 1, 2011. Hazlette began his law enforcement career with the Johnson County Sheriff's Office as a dispatcher. He has 26 years of law enforcement experience, spending most of his career with the Kentucky State Police, where he retired in 2003. Hazlette has a bachelor's degree from the University of Kentucky and a master's degree from Kentucky State University. He also serves as an assessor for the Commission on Accreditation for Law Enforcement Agencies. His plans are to build on the strengths of the agency and leave it better than when he came.

### **RODNEY KIDD**

#### **Lancaster Police Department**

Rodney Kidd was appointed chief of the Lancaster Police Department on Jan. 30. Kidd has 28 years of law enforcement experience. He began his law enforcement career with the Shelbyville Police

Department. He served the Louisville Metro Police Department and retired as the commanding officer in the Special Operations Division in 2007. Kidd also served the Simpsonville Police Department. He is a Kentucky Law Enforcement Council certified instructor. Kidd would like to see his department improve by having an open and transparent relationship with the community and rebuilding their trust. He would also like to pursue accreditation through KACP.

### **LES LANGDON**

#### **Oak Grove Police Department**

Les Langdon was appointed chief of the Oak Grove Police Department on May 3, 2011. Langdon began his law enforcement career as a dispatcher with the Madisonville Police Department in 1982. Before coming to Oak Grove he served as chief of the Lyon County Police Department before the department was dissolved. He came to Oak Grove as an officer, moving through the ranks to become chief. He is a graduate of the Southern Police Institute AOC Class No. 89. Since taking office, Langdon has restructured the department and implemented new policies and procedures. He has a strategic five-year plan that includes creating a chaplaincy program, citizen's police academy, emergency response team and honor guard unit. He also plans to pursue accreditation through KACP. His No. 1 focus is encouraging his staff to pursue higher education and training. Seven of his officers are enrolled in criminal justice programs.

### **CHARLES MILLS**

#### **Livingston Police Department**

Charles Mills was appointed chief of the Livingston Police Department on Jan. 9. He has 11 years of law enforcement experience. He began his law enforcement career with the Kentucky State Police. Mills left KSP and enrolled in Thomas Cooley Law School in Lansing, Mich., where he received his Juris Doctor in 2000. Mills graduated from Eastern Kentucky University with a bachelor's degree in police administration. He has served as an investigator for the Kentucky Board of Medical Licensure. Mills also served the U.S. Department of Homeland Security as a special agent/federal air marshal before coming to Livingston. Mills is a manager of a law firm in Lexington while also serving as the chief of Livingston. His primary goal is to pursue accreditation through KACP and modernize the department by moving toward more professionalism.

### **CODY STANLEY**

#### **Park Hills Police Department**

Cody Stanley was appointed chief of the Park Hills Police Department on Oct. 10, 2011. Stanley served with the Covington Police Department until he retired in the spring of 2009. Stanley then joined the Park Hills Police Department as an officer in the spring of 2011 and was appointed acting chief on Aug. 8. He graduated from Thomas Moore College with a bachelor's degree in generalized studies. Stanley's main goal is to professionalize the image of the department. He looks forward to adding more highly-trained staff. He would also like to focus on continuing education through DOCJT and other training departments. Stanley will work toward Park Hills becoming a department that other agencies can call upon.

# KLEC Presents CDP Certificates

STAFF REPORT | KLEC

The Kentucky Law Enforcement Council's Career Development Program is a voluntary program that awards specialty certificates based on an individual's education, training and experience as a peace officer or telecommunicator. There are a total of 17 professional certificates; 12 for law enforcement that emphasize the career paths of patrol, investigations, traffic and management; and five certificates for telecommunications. The variety of certificates allows a person to individualize his or her course of study, just as someone would if pursuing a specific degree in college.

The KLEC congratulates and recognizes the following individuals for earning career development certificates. All have demonstrated a personal and professional commitment to their training, education and experience as a law enforcement officer or telecommunicator.

**INTERMEDIATE LAW  
ENFORCEMENT OFFICER**  
**Bell County Sheriff's Office**  
Michael S. Stewart

**Bowling Green Police Department**  
Melissa G. Bailey  
Lisa H. Brown  
Matthew W. Davis  
Ryan A. Dillon  
Eric T. Houchins  
Jared W. Merriss  
Steven R. Wilson

**Covington Police Department**  
Justin A. Wietholter

**Eminence Police Department**  
Kevin L. Kemper

**Frankfort Police Department**  
William L. Barbee  
Travis A. Curtsinger  
George C. Quire  
Jeffrey N. Roberts

**Franklin County Sheriff's Office**  
Michael D. Brenneman  
Matthew T. Green  
Roy W. Rivers  
David Rutledge  
Mark L. Watkins

**Harlan County Sheriff's Office**  
Daniel L. Lewis

**Hopkinsville Police Department**  
Todd C. Dearmond  
Shannon D. Wells

**Independence Police Department**  
Todd E. Bennett

**Jeffersonton Police Department**  
Steven E. Fisher  
Adam C. Keller

**Kentucky Dept. of Fish & Wildlife**  
James E. Heady

**Louisville Metro Police Department**  
Christopher L. Aebersold  
Scott A. Beck  
John M. Locke  
Anthony J. Mabrey  
Stuart W. Pryse

Bradley W. Richardson  
Tracie L. Shugart  
Adam L. Strange  
Harry E. Webster Jr.  
Stephen L. Whatley  
Brent P. Willen  
Lawrence G. Zehnder Jr.

**Madisonville Police Department**  
Jeffery T. Ethridge

**Owensboro Police Department**  
Gordon C. Black Jr.  
Randal J. Boling  
Christopher A. Brown  
Christopher T. Castlen  
Marion Cosgrove  
Clinton J. Earnest  
Jeremy B. Henry  
Edward A. Krahwinkel  
Timothy D. McClellan  
Kenneth McKenzie  
Brock A. Peterson  
Sean H. Schlachter  
Glenn W. Skeens  
Jeffrey B. Speed  
Scott Steward  
Michael A. Walker  
Stephen C. Wechtenhiser  
Loren T. Yonts

**Paris Police Department**  
Kevin R. Anderson

**Shively Police Department**  
Theodora Laun

**Somerset Police Department**  
Roger T. Estep  
William E. Hunt

**Taylor County Sheriff's Office**  
Rodney R. Cox  
Mark A. Dickens  
Robert S. Gribbins  
Brian M. Pickard  
Robert T. Vancleave

**ADVANCED LAW  
ENFORCEMENT OFFICER**  
**Ashland Police Department**  
Donald A. Floyd  
Jason A. Moore

**Bowling Green Police Department**  
Lisa H. Brown  
Charles D. Casey

Jerry R. Corbitt  
Jared W. Merriss  
Rebecca A. Robbins

**Eminence Police Department**  
Kevin L. Kemper

**Frankfort Police Department**  
William L. Barbee  
George C. Quire

**Louisville Metro Police Department**  
Shannon P. Parks

**Owensboro Police Department**  
Gordon C. Black Jr.  
Randal J. Boling  
Christopher A. Brown  
Christopher T. Castlen  
Marian L. Cosgrove  
Jeremy B. Henry  
Edward A. Krahwinkel  
Timothy D. McClellan  
Kenneth McKenzie  
Brock A. Peterson  
Glenn W. Skeens  
Jeffrey B. Speed  
Scott Steward  
Michael A. Walker  
Stephen C. Wechtenhiser  
Loren T. Yonts

**Shively Police Department**  
Theodora Laun

**Somerset Police Department**  
William E. Hunt

**Taylor County Sheriff's Office**  
Robert S. Gribbins  
Brian M. Pickard

**Western Kentucky University  
Police Department**  
Daniel L. McKinney

**LAW ENFORCEMENT SUPERVISOR**  
**Cold Spring Police Department**  
Brian K. Messer

**Glasgow Police Department**  
Joseph Keen

**Louisville Metro Police Department**  
Andre R. Bottoms Sr.

**Owensboro Police Department**  
Gordon C. Black Jr.  
Christopher A. Brown  
Christopher T. Castlen  
Brock A. Peterson  
Kevin L. Kemper  
Scott Steward

**Somerset Police Department**  
William E. Hunt

**Taylor County Sheriff's Office**  
Robert S. Gribbins

**LAW ENFORCEMENT MANAGER**  
**Ashland Police Department**  
William D. Hensley

**Danville Police Department**  
Thomas E. Bustle  
Anthony G. Gray Jr.

**Glasgow Police Department**  
Joseph K. Keen

**Owensboro Police Department**  
Brock A. Peterson  
Glenn W. Skeens  
Jeffrey B. Speed

**Russellville Police Department**  
William V. Shifflett

**Western Kentucky University  
Police Department**  
Daniel L. McKinney

**LAW ENFORCEMENT EXECUTIVE**  
**Glasgow Police Department**  
Joseph K. Keen

**Owensboro Police Department**  
Glenn W. Skeens

**Western Kentucky University  
Police Department**  
Daniel L. McKinney

**LAW ENFORCEMENT CHIEF EXECUTIVE**  
**Berea Police Department**  
David T. Gregory

**Florence Police Department**  
Thomas E. Szurlinski  
**Owensboro Police Department**  
Glenn W. Skeens

**LAW ENFORCEMENT OFFICER INVESTIGATOR**

**Allen County Sheriff's Office**  
Charles W. Drummond

**Covington Police Department**  
James A. West Jr.

**Daviess County Sheriff's Office**  
Morgan D. Palmiter

**Harrison County Sheriff's Office**  
Damian N. Gasser

**Kentucky Alcoholic Beverage Control**  
Ian K. Thurman

**Kentucky Dept. of Fish & Wildlife**  
Charles J. Wilson

**Louisville Metro Police Department**  
Dennis W. Embry

**Owensboro Police Department**  
Randal J. Boling  
Christopher A. Brown  
Edward A. Krahwinkel  
Timothy D. McClellan  
Michael A. Walker  
Stephen C. Wechtenhiser

**LAW ENFORCEMENT TRAFFIC OFFICER**  
**Ashland Police Department**  
Donald A. Floyd

**Eminence Police Department**  
Kevin L. Kemper

**Frankfort Police Department**  
Travis A. Curtsinger

**Independence Police Department**  
Todd E. Bennett

**Owensboro Police Department**  
Timothy D. McClellan

**Taylor Co. Sheriff's Office**  
Brian M. Pickard

**ADVANCED DEPUTY SHERIFF**  
**Franklin County Sheriff's Office**  
Shaka-Tauhid Bridges

**BASIC TELECOMMUNICATOR**  
**Bluegrass 911 Central Communications**  
Angela D. Owens

**Bowling Green Police Department**  
Hillary J. Halbig

**Danville Police Department**  
Lisa K. Roller

**Monticello/Wayne County 911**  
Isaiah A. Corder  
George R. Penick  
Sara Shelton

**Morehead State University Police Department**  
Penny H. Bond

**Paris/Bourbon County 911**  
Taylor B. Douglas

**Warren County Sheriff's Office**  
Jenny Puckett

**Western Kentucky University Police Department**  
Charles L. Hall Jr.  
Philip W. Madison  
Mellisa N. Torrence

**INTERMEDIATE TELECOMMUNICATOR**  
**Bowling Green Police Department**  
Steven R. Wilson

**Campbellsville 911 Communications**  
John W. Jessie

**Jessamine County 911**  
Robin M. Wagoner  
Joel C. Price

**Western Kentucky University Police Department**  
Connie Myers

**LAW ENFORCEMENT TRAINING OFFICER**  
**Henderson Police Department**  
Jeff L. Welch

**Owensboro Police Department**  
Christopher T. Castlen  
Marian L. Cosgrove  
Scott Steward  
Loren T. Yonts

**LAW ENFORCEMENT OFFICER ADVANCED INVESTIGATOR**  
**Campbell County Police Department**  
Marty A. Hart

**Independence Police Department**  
James E. Moore

**Owensboro Police Department**  
Randal J. Boling  
Timothy McClellan

**Shively Police Department**  
Joshua A. Myers

**COMMUNICATIONS TRAINING OFFICER**  
**Bowling Green Police Department**  
Steven R. Wilson

**Pendleton County Dispatch**  
Jackie F. Stephens

**Western Kentucky University Police Department**  
Nancy H. Kinkade

## KSP Picks Legend for 2012 Car Raffle

The Trooper Island raffle this year features a 2012 Dodge Challenger R/T Classic. The Challenger sits apart from the pack with an unbeatable combination of fun, nostalgia, power and functionality.

Tickets are \$10 each and are available from any KSP post. The winning ticket will be drawn on Aug. 26 at the Kentucky State Fair. (Raffle winner is responsible for all tax and license fees.)

Trooper Island is a free summer camp for underprivileged boys and girls, operated by the Kentucky State Police. It is financed entirely by donations; no public funds are used. Each year, the camp hosts approximately 700 children, providing recreation, guidance and structured, esteem-building activities.



Visit [www.kentuckystatepolice.org](http://www.kentuckystatepolice.org) for more information.



## The 25th Annual Law Enforcement Torch Run Coming in April

The 25th annual 10K Law Enforcement Torch Run to benefit Special Olympics will be conducted on April 14 at 9 a.m. at Farristown Middle School in Berea.

The Torch Run is the largest grassroots fund raising and public awareness program benefitting Special Olympics. Officers, volunteers and public employees join in a year-long "run" of activities to generate more than \$200,000 annually to support Special Olympics Kentucky's sports training and competition programs for children and adults with intellectual disabilities.

Torch Run activities take place throughout the state year round and involve the general community in many instances in events like Cops On Top Doughnut Shops, Tip A Cop, Polar Plunge and Torch Run shirt sales. Torch Run volunteers also are actively involved in every aspect of Special Olympics helping set up, participating in fund raisers and presenting awards at Special Olympics events.





Bardstovwn Police Officer  
**Jason Woodson**

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

“*I’m a hands on kind of learner, so that’s how I like to teach them. They’re like little alligators, they keep chomping for more. They love it.*”

It’s no wonder Jason Woodson says he has a great relationship with his community. His friendly demeanor and positive outlook are inviting and his passion for his work would make anyone feel safe. It is inevitable that these qualities have something to do with the success Woodson already has enjoyed in his six short years as an officer with the Bardstown Police Department. His curiosity and heart for the community have driven him to develop and expand two of the agency’s most successful programs — the explorers program for teenagers pursuing a future in law enforcement and the agency’s first cyber crimes unit.

With a total of 12 years in the field under his belt and varying types of service to the public, 34-year-old Woodson still is eager to learn more. That voracity for more is what is sure to keep him moving up the ranks.

**I’m originally from** Shepherdsville. My wife and I were looking at some property over in Taylorsville and my dad said there was a super Wal-Mart over here in Bardstown. There wasn’t at the time, but we drove over here. My wife saw a house in Bloomfield, and the second time I saw it, we owned it. We’ve been there ever since. Have you ever seen that movie with Tom Hanks, “The Money Pit”? Yeah, that’s my house.

**I came to Bardstown** for more opportunities for advancement. I have been very, very happy since I have been here. I can’t complain, they have been very good to me.

**I took over the Explorer Program** about two years ago. Right now we have 11 kids. I say kids, they are 14 to 20 years old. Their main goal is to seek out employment in law enforcement. We’re glad we can give them the opportunity. We do all kinds of basic patrols, investigations, show them how to work scenes and they help us out with events. They thought it was going under and asked me if I would like to take it and see what I could do with it. We have doubled the number of kids we started with.

**I think it’s a must** because they get to see our world and see if it is something they truly want to do. We don’t come in and just push a pencil. We don’t just come in and work on computers. I wear several hats here. Even though I might be in here

working on a computer doing something, if I get a call, I have to go. We don’t have the luxury of having that many officers where I can just sit in here. The explorers get to see that. That tells them real quick whether they want to do it or not.

**It’s kind of like Christmas morning** when you wake up and get to see the excitement on their face. That’s what it is like when I work with the explorers and get to see their excitement. That is what I strive for. When I get those smiles and comments — they are kind of like my own children. It lets me know I’m doing what I need to do and getting a great response from the community.

**I’m kind of a technology nerd.** When (Chief Rick McCubbin) came in, he let us start the cyber crimes unit. The world is turning to technology. We used to get burned alive with (the community news website) Topix.com and eBay scams, cyber bullying and all that. I felt like it was important, that we needed something in this area. And since I do like technology, I volunteered.

**I work on** the child pornography, the scams and the Topix complaints. I think of Topix like a bathroom wall, personally. It’s pretty bad. It worries me because I have two daughters myself, and if I can stay ahead of the game, I know what to look for at my own house when they are on the computer. My computer is really restricted at the house. I’m scared, to be honest. My daughter begs about every day for a Facebook account, and I won’t let her have one.

**The delay in information** is a challenge in cyber crimes cases. I’ll be able to find out certain things, then I have to subpoena others, and that takes awhile. Some of our detectives in other units can solve cases in a day or a week. It might take me several weeks to get one subpoena back in a cyber-crimes case. Then I have to go to the next round. The hardest part I have seen so far is finding a way to put one particular person out of a household at that computer when the crime was committed. That’s a challenge, and that’s your main goal.

**You have to have integrity.** You have to be consistent. You just have to know your job and know your community. I am big on community. Unfortunately, like anywhere, there are bits and pieces you could do without. But as a whole, I love them. They will treat you well, help you more times than not and send you in the right direction a lot of times, if you’re good to them. I’m very fortunate to have a good relationship with our community.

**I would love to** have more training in computers. I would love to devote more time to it and devote more time to the explorers. We just don’t have the manpower, so it limits me a lot of times. But, the guys here are very good, if I need time working on a computer case and am right in the middle of a chat or something, they are very good to pick up the call for me and go on. That helps out tremendously. You can only think of so many excuses in a chat for why you have to leave.

**If something is new** to me, there is a chance somebody has already been through a similar scenario. Just ask other officers for help — there is a wealth of knowledge out there. A new guy might learn something new from the academy that the older guys don’t know, and the older guy might say, ‘Well, if you get stuck in this situation, this is what I do, and I’ve been doing it for 20 years.’ I have found anybody I have ever had to talk to has been nothing but super helpful.

**You learn something** every day through different scenarios and different things happening around you. That is probably one of the biggest chores of law enforcement, I think, learning how to adapt. You might go to court one day and it might be the same type of case you had a year ago, but it goes a totally different way. You go to a call and have to adapt to what is going on there. Sometimes you get to a call and think, ‘What the heck is going on here?’ Then you have to figure it out, take control and do what you need to do. That’s just how it goes. 🐢

---

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

---





# PHARM

**{ Pill mills reaching into Kentucky communities, touching everyone }**

**KELLY FOREMAN | PUBLIC INFORMATION OFFICER**

# We

go to doctors for help.

When we're sick and hurting, we trust doctors with our lives. We trust them to follow the first rule of medicine as old as Hippocrates — first, do no harm.

So, when doctors like Richard Albert move in to small-town eastern Kentucky and open pain management clinics, we assume their presence is a sign of relief for pain sufferers seeking comfort. But, when

the cash begins to flow in, the lines to see the doctor get longer, the prescriptions fly out the door and those truly seeking help can't seem to get it, the signs begin to point toward catastrophe instead of comfort.



The evidence that harm indeed is being done soon becomes all too apparent. When local pharmacies run out of Percocet, Oxycontin, Xanax and Lortab pills and the coroner's office can't keep up with the calls for overdose victims, it's pretty clear the clinics are simply fronts for pill mills.

#### WHAT IS A PILL MILL?

In Paintsville, police were being inundated during traffic stops with citizens who were under the influence. In many cases, the suspects had prescriptions written by Dr. Albert, a physician at Care More Pain Management Center, said Jennifer Carpenter, branch manager of the Attorney General's Drug Investigations Branch. Soon, complaints started coming in from business owners neighboring Care More, bemoaning the parking lots overflowing with drug seekers, tailgating while waiting for their appointments and snorting pills outside their buildings.

These are just a few typical signs of the establishment of a pill mill in a community, Carpenter said. A pill mill is an operation in which a doctor, clinic or pharmacy prescribes and/or dispenses narcotics without a legitimate medical purpose. And in cases like Albert's, these doctors use their prescription pads to flood their communities with illegal narcotics. In his federal plea agreement, Albert admitted to unlawfully dispensing more than 50,000 oxycodone tablets into Johnson County.

These are not normal doctors, Carpenter said.

"Most of the time, pill mill physicians have action against their license in another state," she said. "Maybe they didn't get it taken from them, but they usually have some kind of action. So, these physicians aren't like your normal physicians. They just want quick, easy money. What they do is find a business owner, who is not a physician, to fund them to come in and

operate their pill mill. So, basically [the business owner] uses them for their DEA license."

When the doctor begins to see patients — a term used lightly in these cases — the drug seekers sometimes walk in with an old MRI scan and receive a cursory physical exam. In a matter of minutes, these doctors write prescriptions for large quantities of narcotics in exchange for an office fee which can range from \$200 to \$400.

For unscrupulous doctors hanging by a thread, it's a chance to make a lot of money — fast.

"It's a huge money maker," Carpenter said. "Huge. Think about it. They may have 60 people on a list to be seen each day. At about \$200 a person, if they see 60 people, four days a week, that's \$48,000."

Unlike a typical clinic, it is strictly a cash business. There is no insurance plan and no individualized treatment. If your pain could be eased with physical therapy or surgery, it won't be a treatment option offered in a pill mill. In some cases, physicians like Albert might not even bother seeing you on a return visit. According to his plea agreement, Albert signed blank prescription pads and allowed office assistants to write in the drug of choice for incoming patients.

"Make no mistake, this is the most predominate problem we have in Kentucky right now," said Roger West, assistant U.S. Attorney, Eastern District.

#### NOT JUST FLORIDA'S PROBLEM

Recent news has been flooded with stories of pain pill pipelines from the sandy shores of Florida to the far reaches of Kentucky's Appalachian mountains. With its lack of a prescription monitoring system in place, Florida had long been a viable playground for pill mill operators and drug seekers alike.

"I have a good friend who was a sergeant with the Broward County (Fla.) Sheriff's Department, and when our people started going down there, she would call and say, 'You guys need to keep your people at home, they are crazy!'" Carpenter said. "People were literally going to one hotel down there, an Econolodge >>

◀ In this surveillance footage, pill seekers gather in droves to visit an unnamed pill mill. Congregating "patients" is just one of many signs of pill mill activity at a pill clinic.

PILL MILL

## Signs of a Pill Mill in Your Community

- No physical exams are given
- Only cash is accepted as payment
- Pain is only treated with pills
- Congregating "patients" in the parking lot
- Excessive traffic to and from the doctor's office
- Complaints from pharmacists about doctor's practices
- Large cash deposits at the bank
- Complaints from neighboring business owners about clientele
- Patients are in and out of the doctor's office in minutes ■



PHOTO BY JIM ROBERTSON



PHOTO BY JIM ROBERTSON

>> or something, and she said, ‘It’s all full of Kentucky people every night. They are just wild.’ They were spending the night there to go to their doctor’s office the next morning and leave.”

Kentucky’s law to monitor prescription drugs, the Kentucky All Schedule Prescription Electronic Reporting system, better known as KASPER, was created in 1998 and serves throughout the country as a model for tracking would-be illegal prescription narcotic activity. But, several of our neighboring states — and those close by like Florida — are just now beginning to put together programs such as KASPER, said Carpenter.

“I think just because we have the best law and the best monitoring program, it pushed our people outside the state lines to get their drugs,” she said. “Now that these other states are trying to step up and do something with their legislation, it is gearing these people back toward home. A lot of them stopped going to Florida, now they’re going to Georgia. Now even Georgia is getting a prescription monitoring program in place. Now, I think the doctors are a little afraid there. So they are trying to follow the patients back to Kentucky. Because they have such a huge patient base in Kentucky, they don’t want to lose our people.”

As of late January, Carpenter said the attorney general’s office was aware of at least a dozen pill mill clinics operating in the central and eastern parts of the state,

a number that is definitely on the rise. West, who has been prosecuting prescription narcotic cases for more than a decade, said Kentucky drug seekers are especially fond of local pill mill operations because it makes their jobs so much easier.

“If a KASPER type program gets online in Florida, all that is going to do is stop them from doctor shopping down there,” West said. “What has been the most significant impact is the local law enforcement down in Florida and Georgia who are arresting these people and locking them up. Just in the federal court, we have put anywhere from 50 to 100 people in prison who have been going back and forth from Kentucky to Florida. So, that’s a red flag right there to the drug community. But if they stay locally, it doesn’t raise a red flag. If they stay locally, they can drive to the next county to visit a doctor who’s going to give them prescriptions. They can go underneath the radar pretty easily.”

“They are filtering into Lexington, toward northern Kentucky and south of Lexington — that was unusual,” he continued. “And they are going to continue to creep westward.”

#### **SHUTTING THEM DOWN**

If investigators know where to find these pill mills and what to look for, it might seem questionable why they still exist. But, Carpenter and West agreed it’s not that simple. >>

“*Kentucky’s law to monitor prescription drugs, the Kentucky All Schedule Prescription Electronic Reporting system, better known as KASPER, was created in 1998 and serves throughout the country as a model for tracking would-be illegal prescription narcotic activity.*”



◀ Interstate 75 has been called the Pill Mill Pipeline — a direct pathway between states with lax laws on prescription drugs for Kentucky pill seekers to travel. However, as those states begin to strengthen their laws, experts say pill mill doctors will bring their practices closer to the heart of the problem — our commonwealth.

“*A recent report from the Kentucky Department for Public Health showed that more Kentuckians die from prescription drug overdoses than from car accidents.*”

» “With a physician, they have gotten to where they know exactly the line not to cross,” Carpenter said. “They ask certain questions, they require a Kentucky driver’s license, they run KASPER on their patients to make sure their patients aren’t doctor shopping — so they think they are taking all the correct steps. Well, then it takes us a while to actually conduct an investigation because you have to send undercover [officers] in there, you have to send confidential sources in there and try to get to where the doctor isn’t doing the exam. They may do just enough of an exam to where we can’t do anything about it criminally. That’s where the Kentucky Board of Medical Licensure would step in.”

West agreed.

“It takes a long time to actually prove the case,” he said. “Doctor cases aren’t easy to try. They take a long time and they absorb a lot of our resources, too. If a doctor has a medical license and a DEA number, he has a legitimate right to dispense medication. We have to prove it’s illegal what he’s doing. That standard of ‘outside the usual course of medical practice’ and ‘not for a legitimate medical purpose,’ it says ‘legitimate medical purpose.’ They can give it out for a medical purpose, it may not be legitimate. We only catch the guys who are way far into the bad conduct. A smart doctor running a pain clinic could do very well and we’d never be able to lay a hand on him.”

The education and prestige that normally accompanies a medical degree can intimidate officers faced with a possible

pill mill in their town, Carpenter said, but it shouldn’t.

“When these cases first started coming about, people would say, ‘Oh it’s a doctor, we’ll never be able to get them.’” Carpenter said. “Really, they’re just like a regular drug dealer. It just takes a lot more time to investigate it.”

These investigations can take a year or more to gather sufficient evidence to convict, but Carpenter said no one has to do it alone.

“The attorney general’s office and tactical diversion up here are very unique in that we can take the time and work these cases, we’re not responding to calls every day. Whereas a local police department, they don’t always have the time, resources, or training to work these kinds of cases. It takes lots of surveillance, you have to do background checks on the employees — a person who is on the up and up isn’t going to want to work in a place like this and be around those kind of people all the time. You have to check the background on the physician, interview some of the patients, try to get undercover officers in there or confidential sources work through them just to get into the doctor’s office. We’re very fortunate that we have the time to do it.

“Reaching out is a good place to start,” she continued. “It doesn’t mean I want your case. At least we can give you a little guidance on where to start.”

#### THE SUFFERING

Pill mills are not a new problem and not one that is going to be easily solved. A lot of work has gone into slowing them down. Task forces have been created among law enforcement to investigate and shut down the offices. Gov. Steve Beshear appointed a panel of professionals to spot pill-pushing doctors. Legislators at press time were reviewing emergency legislation in hopes of



establishing new regulations to make pill mills more difficult to operate.

But, with millions of dollars at stake and the grip of addiction taking a strong hold on Kentucky's population, it is going to take a lot more to send these doctors packing.

Some counties, such as Knott, Carter, Morgan and Greenup have created their own ordinances banning pain clinics in an effort to keep out pill mill operations. But, some say those who are suffering most from this scourge are those truly in need of pain relief and the doctors legitimately trying to help them. Most doctors are responsible, and are working hard to protect themselves and their practices from drug seekers. And patients desperate for relief from their suffering are having a harder and harder time finding it.

"A legitimate patient will see that a pain clinic is coming into an area, go for a first visit and call us and say, 'Something is not right. That guy didn't even want to listen to me, he just wanted to give me three prescriptions.'" Carpenter said. "I think a legitimate patient figures it out real quick. It makes it a little bit harder on your legitimate physician because they actually want to treat the patient, but the drug seeker doesn't want to be treated."

We must keep working toward a solution for the sake of our families.

"A recent report from the Kentucky Department for Public Health showed that more Kentuckians die from prescription drug overdoses than from car accidents," Beshear told constituents during his state of the union address earlier this year. "Think about that: our medicine cabinets are deadlier than our highways."

"I don't think there is one family in Kentucky that has not been touched or affected by it in some way," Carpenter said. "And I don't mean one person in their family addicted, but you think about all these other crimes — thefts, robberies, break-ins — there is probably not one story we see on the news where somebody didn't break in and they wanted medication. Or, they go pawn something because they need to go buy medication.

"To be honest, people think it's not as bad as if they were out here buying and selling cocaine or heroin because it's a legitimate drug," she continued. "It's nothing just to see somebody trading prescriptions

in a parking lot outside of a [local pharmacy]. They know it's wrong to sell it, but it's just the perception of it. I think even the addiction part — if I was sitting at my desk at an office job and popped a pill, nobody would think anything about it. And I could be high all day at work. Surely people would eventually figure it out. But, it's not like you were sitting and snorting cocaine at your desk. That's why I think it's accepted more."

#### A SOLUTION

One solution Carpenter said is underway is the national linking of prescription monitoring programs.

"The National Board of Pharmacies has a program right now they are getting ready to implement called InterConnect," she said. "The ultimate goal is to link together all the prescription monitoring programs. If we could all talk to each other and if all the monitoring programs would have the same data, it would be wonderful. Because, we would know [where people are going]. Right now, if we get a complaint on somebody going to Florida, I run a KASPER on them here to see if they are getting [narcotics] here. Because it would be easy for them to go to a doctor here once a month and also go to a doctor in Georgia or Florida once a month and I wouldn't know about it. So, if they could all be linked together it would certainly help law enforcement and it would help the doctors they see, because they could run the reports and see that they've gone somewhere else."

But until then, officers at the local level are the key to connecting the clues that might identify a new pill mill in the community.

"Traffic stops are a big thing that law enforcement officers can use," Carpenter said. "That can be a big clue that there is a pill mill in their area or maybe in a surrounding county. Just because people say, 'I have a prescription for it, here's my prescription.' If they start seeing the same doctor over and over again, that could be a red flag. I kind of try to educate them to ask questions and if everybody in the car has the same pill bottle for the same thing or the same doctor, treat it like an illicit drug." 🍌

---

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

---

## Pill Mill Legislation Pending

Currently, Kentucky lawmakers are considering legislation in both the house and senate to squash pill mill activity in the commonwealth.

Senate Bill 42 and House Bill 4 address the complicated issue of pill mills in Kentucky, an issue Gov. Steve Beshear said must be a "high priority" for the state. At press time, neither bill had significant movement.

Senate Bill 42 would require all pain management facilities to be licensed appropriately. It also creates new rules for who can own, operate and work for the businesses, as well as details about regular inspection of the agencies.

House Bill 4 addresses the Kentucky All Schedule Prescription Electronic Reporting system and would require all doctors issuing prescriptions to register and use the system. New standards would be put in place for sharing information among law enforcement and licensure boards and data gathered from KASPER reports would have to be more regularly reviewed to identify potential pill mill operations.

For up-to-date details about this and other legislation of note to law enforcement, visit [www.kledispatches.ky.gov](http://www.kledispatches.ky.gov). ■



PHOTO BY JIM ROBERTSON

# Facilitation Center Helps Officers Think Outside the Box

Build relationships  
Define action  
Generate solutions  
Make progress  
Reach consensus



KELLY FOREMAN | PUBLIC INFORMATION OFFICER

Old habits are hard to break. Policies that have been in place for decades that just aren't working anymore are hard to redesign with fresh ideas. Finding new ways to stretch exhausted budgets is never easy.

Sometimes it takes a new way of thinking to get it done.

That's just what Eastern Kentucky University's Facilitation Center is all about. Recently, the Department of Criminal Justice Training's Leadership Development Section decided to introduce facilitation training as part of its Criminal Justice Executive Development Course. It is a style

that fits well with the role CJED provides for Kentucky's law enforcement leaders.

"CJED is heavy with discussion about the future of policing," said Leadership Development Training Instructor Alvina Maynard. "These leaders are transitioning from operational to strategic roles of responsibility in their departments. They're going from working within the structure of their department to being the leaders that shape that structure and culture.

"These problem-solving techniques will help CJED graduates work through challenges in a methodical way, which encourages creativity and open-mindedness while maintaining focus," Maynard continued.

## HOW FACILITATION CAN HELP

The Facilitation Center became a part of EKU's College of Justice and Safety in 2003, said Stefanie Ashley, a facilitation services specialist at the center. Since then, the staff with a combined 30 years of facilitation experience has conducted various types of trainings and occupational analysis, as well as facilitated meetings for both the university and other clients across the country.

"Our role as a facilitator is to be a neutral party that guides the process of a meeting and not the content," Ashley said. "The participants are the experts and we create space and time for them to share their ideas and thoughts in a creative, productive

manner. In this capacity, we can help groups plan, solve problems, make decisions and increase their effectiveness.”

During the CJED class, officers entered the classroom to find their desks filled with silly toys, brightly-colored papers, scented markers, stacks of illustrated post cards, stickers and other oddities. Ashley explained that all of these items had a purpose.

Step by step, the officers used visuals like the post cards to generate ideas and perspectives. They used non-traditional “non-cop” items, as they called them, to access their creativity, such as the toys and even yoga and cooking magazines. They used activities to build on the ideas of their classmates and set ground rules such as, “avoid criticism” and “we let all ideas live for now,” to discourage negativity.

From there, the class was able to use other challenges presented by Ashley to define issues, prioritize them, brainstorm and work toward solutions.

“Albert Einstein defined insanity as doing the same thing over and over again and expecting different results,” Ashley said. “We are sometimes confronted with situations where the solutions, concepts and

ideas we’ve historically called upon are not working. So, when you’re trying to solve a problem, the ability to generate creative solutions can mean the difference between success and a strong desire to bang your head against a wall.”

### THE TEAM DYNAMIC

In today’s law enforcement, many officers have to work both independently on their beats and simultaneously as part of their shift team. The facilitation training is geared toward those who work well independently and as part of a team.

“When designing a brainstorming activity, you need to plan it in a way that caters to both strengths, such as allowing a few minutes for each person to individually write down their own ideas, then begin to share them as a group,” Ashley said. “However, at the end of the day, the key to brainstorming is the group interaction. Independently, we can all come up with answers to a question, but when those ideas are displayed and shared, the ideas begin to build upon each other and the creative juices flow even more rapidly.”

This type of “out of the box” thinking is more important than ever as agencies

continue to look for innovative ways to do more with less, said Leadership Development Training Section Supervisor Rich Hanzes.

“The section on brain storming gives the aspiring executives a practical way to facilitate an open-ended, thought-provoking discussion that focuses on addressing the many challenges that confront their agencies,” he said.

When an agency needs to address a situation and chooses to bring a group together to do so, the result can be particularly valuable, Ashley said, because people remember what they see, what they help create and are more likely to be invested in the outcome.

“Sharing ideas and information also allows a group to better understand the problem and get behind solving it,” she said. “Brainstorming should eventually lead to rich discussions, an awareness of the various perspectives and, ultimately, a greater understanding of the topic and solutions. People are more likely to be invested in an issue if they are involved in solving it.”

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.



PHOTO BY JIM ROBERTSON

▲ From left, Criminal Justice Executive Development students Chad Carpenter, Elsmere Police; Chris Castlen, Owensboro Police; Leadership Development Training Instructor Alvina Maynard and Michael Felts, Hopkinsville Police; discuss challenges facing law enforcement with Jason Hays, Berea Police (unseen). The CJED class was challenged to work together as a team to discuss the issues as part of the facilitation training presented by Stefanie Ashley.



PHOTO BY JIM ROBERTSON

▲ Stefanie Ashley is a Facilitation Services specialist for Eastern Kentucky University’s Facilitation Center. The center is designed to help professionals be more productive in their meetings and to think creatively about new ideas and solutions.





# Small Town Aggressive

**LEITCHFIELD  
POLICE DEPARTMENT**

**KELLY FOREMAN** | PUBLIC INFORMATION OFFICER



**N**estled between two popular and active lake communities, Leitchfield has the best of both worlds — plenty to do with the kinship of a small town.

The ever-growing population of roughly 6,500 is policed by an equally active and popular police department, led by Chief Bart Glenn. With a strength of one part-time and 14 full-time officers, Leitchfield's finest admit they are as unique as the town they patrol.



Glenn took the reins as chief in 2007 after rising through the ranks in his hometown agency. Growing up in Leitchfield, Glenn served a brief stint with the Houston (Texas) Police Department in the 1980s before returning home where he belonged. Since he became chief, Glenn has worked diligently with the city's leadership to ensure his department has what it needs to be successful.

"Chief sees to it that we have good equipment, receive good training, have a nice facility — but we are constantly trying to do more things to get a closer association with our community," said Officer Brandon Brooks.

Brooks, a three-year veteran of the agency, has been honored twice by the Kentucky Office of Highway Safety for his DUI arrests and once for seat belt violation arrests. He also is serving as the

accreditation manager as the agency seeks reaccreditation through the Kentucky Association of Chiefs of Police. He and another officer recently have taken the lead on creating a neighborhood watch program, something Brooks said benefits the community and the officers.

"We want to get people involved with our police officers a little more," Brooks said. "We are trying to get that off the ground so that we can meet with the public, maybe people we wouldn't have met before, and hopefully, from there, kind of expand our community projects to safety fairs and whatever the possibilities are for us."

There is little violent crime to speak of in Leitchfield, Glenn said. When the neighborhood watch members began coming together a few months ago, Glenn said most of their complaints were about speeders and loud neighbors — but they are issues that are important to the citizens, and therefore not taken lightly by the officers.

"It lets us get out there with the people and see what their concerns are, what their needs are," Glenn said. "A lot of times we don't have interaction with people unless they call us when they need us for something bad, but this gives them a

chance to come in there and talk to us one on one and express their concerns."

So far, Brooks said the response has been promising.

"The people who want to get involved are people who want to help," he said. "But even when you ask them, 'What do you want to see change? What do you think are issues? Well, for the most part, a lot of the general public says, 'I don't see drugs on my street. I don't see the effects of violent crimes,' things like that. There are only so many of us on the street at any given time. But the public is out there. They are the ones who call us, so the better communication we have with them the more it helps us do our job. [The neighborhood watch program] has so many advantages, I can't think of any disadvantages."

For the past few years, the agency has kept a close eye on the community through the eyes of its teenagers in the Grayson County High School. School Resource Officer Braxton Allen, who has served the role for two years, makes a point to meet every freshman who enters the school each year by teaching a section on bullying in the students' health classes.

"I teach about bullying, cyber bullying, sexting — and tell them it's against the law," Allen said. "A lot of them don't realize >>

◀ Leitchfield is the county seat of Grayson, a growing county of more than 25,000 residents. The Leitchfield Police Department is responsible for about 6,500 of those citizens.

▼ Officer Brandon Brooks, a three-year veteran of the Leitchfield Police Department, has been honored twice by the Kentucky Office of Highway Safety for his DUI arrests and once for seat belt violation arrests.



PHOTO BY JIM ROBERTSON



PHOTO BY JIM ROBERTSON



Community is important to Leitchfield's officers, many of which have called the small-town community home for most of their lives. Chief Bart Glenn has put programs like the neighborhood watch and school resource officers on high priority to maintain involvement with local citizens.

>> what they are doing is against the law. We talk about Facebook and Topix[.com]. A lot of the main things I try to cover are the social-media issues. It is a new area nobody really knows how to combat well, yet. We are trying to do the best we can to get parents involved.”

Creating relationships, humanizing the roles of officers and breaking down barriers is an intense part of Allen’s work.

“Most kids hate the police,” he said. “They are raised that way. Now, I’m not saying that because I’m down here they love the police. But kids relate to you when you cut up with them and you build that relationship with them. That way when they deal with an officer on the street, they know we are not all robots. I like that. I can see a difference in some kids. One kid came to school one day and didn’t want me to look at him or anything. Little by little, one day he asked what my name was. That was a big breakthrough. It’s rewarding seeing stuff like that.”

Glenn emphasized the importance of Allen’s relationships with the community’s younger members.

“The parents like it,” he said. “They like knowing their school is protected by a school resource officer.”

“Having an SRO is not going to guarantee nothing is going to happen or nobody is going to get hurt,” Allen added. “But, the principal can tell you, if you look at the referrals this year, they are down. The drug cases have actually gone up because I am getting more people to tell me stuff. Which is good. But, the fights, the disturbances, the damage to the school, even tobacco use is down.”

Allen’s position in the school also allows for good follow up when juveniles are caught wandering the streets when they aren’t supposed to be, Glenn said.

Greg Whobrey, a lifelong Leitchfield resident, spent five of his six years with LPD working third shift, and as a result, working with a lot of wandering teenagers.

“We don’t have a curfew, although sometimes I tell them there is, just to make sure they go home,” Whobrey said. “A lot of times, calling moms and dads takes care of the problem. You hate to get a kid

that’s just out there and not really doing anything in the court system. So, we try to let mom and dad take care of the problem. But, I let them know, that if they don’t, then I’m going to take care of it, and they aren’t going to like what happens.”

“I think that is another good thing about a small town,” Glenn added. “If Greg deals with a juvenile out here, he can call their parents. He may not know them, he might, but if he knows them, he is going to have a good rapport with them and be able to follow up with them. He might see them at Wal-Mart next week and they’ll tell him, ‘Hey, I took care of that problem.’ Then, with Braxton at the high school, we can tell them what this kid was doing, and he can talk to them the next day. It works pretty well.”

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

▼ Leitchfield School Resource Officer Braxton Allen spends his days among the community’s teenagers at Grayson County High School. It’s an important job, he says, and one that has been rewarding.



PHOTO BY JIM ROBERTSON



# JUSTICE FOR THE AGING



**W**hen an elderly man sits in silence, alone in a dark, cold room abandoned by his family to whom he entrusted

his entire life savings, who comes to his defense? When an aging woman lies dying in a hospital bed, suffering from the scars of neglect from the facility her family trusted with her care, who takes a stand for her plight?

Nikki Henderson, an investigator with the Attorney General's Medicaid Fraud and Abuse Control Office, has devoted the majority of her career to being the mouthpiece for Kentucky's aging population. Not only did she supervise the state's first full-time elder abuse unit with the Jefferson County Police Department, she also served with the state's Office of Aging before becoming an investigator for the attorney general. She has made it her life's focus to defend the cause of the elderly and hold facilities responsible for proper and attentive care and use of resources.

Henderson has received numerous awards and accolades for her work in fighting elder abuse and promoting awareness of the issue in the commonwealth. >>

PHOTO BY JIM ROBERTSON

Office of the Attorney General Investigator Nikki Henderson, with the Medicaid Fraud and Abuse Control Office helps provide justice for Kentucky's elderly

ABBIE DARST | PROGRAM COORDINATOR

**>> In your current position with the Kentucky Office of the Attorney General and what are your responsibilities?**

I'm an investigator with the Medicaid Fraud and Abuse Control Unit of the attorney general's office.

As investigators, we have the responsibility of investigating provider fraud, not the recipient Medicaid fraud, but the provider fraud — doctors, psychologists, podiatrists — those entities. We also have the responsibility of investigating abuse and neglect in Medicaid-funded facilities, like nursing homes and group homes. If there is an allegation of abuse and neglect, we have to respond to that. However, the prosecutors in our office will prosecute the provider fraud cases, but the abuse and neglect in the facilities is prosecuted by the jurisdiction in the county in which it occurs. So, we do the investigation and then work with the local attorneys to do something about it.

It is their jurisdiction and they want to handle the responsibility of what happens in their county, so it makes sense. But we have to develop a rapport with them. It is almost like every time we are in a different county, we have to educate the county or commonwealth attorney — 'this is what I do, and you will prosecute it.' But, we try to teach them how to do that and work with them to do it.

**Do you ever work with local law enforcement doing those investigations, or are these cases strictly something this office investigates?**

No, law enforcement has the opportunity to investigate any of the abuse and neglect in any of the facilities. They don't do the provider frauds because they are definitely time consuming and take a lot of resources. They do not have the manpower, time or energy to do that. But as far as abuse and neglect, if something happens at a nursing home and they call local law enforcement immediately, they can take it and run with it. It is just important that somebody is looking into that abuse and neglect issue.

But, a lot of times they are so difficult because you do not have many witnesses, or competent witnesses, that it is hard for them to really proceed with it. We get a lot of the cases that no one else wants, actually.

**Since the inclination would be to call local law enforcement, how do you find out about abuse and neglect cases and end up in control of those?**

The facilities, by law, have to report all of the abuse and neglect issues to the Department of Community Based Services. Adult Protective Services takes a report as well. If it meets the criteria, they send one of the DCBS workers to the facility and investigate it as protection of the victim. They want to make sure the victim has the right resources and make sure he or she is protected. Then all those reports are sent to the attorney general's office, county and commonwealth attorneys, local law enforcement — they are sent everywhere. If we review them and we believe it fits the criteria — that it is in a Medicaid facility and it meets the criteria of abuse and neglect (it could be criminal) — then we look at it. That is what you do in investigation. You look and see who all the players are. If local law enforcement are working it, that is fine. If they need any help, we are available.

With us, there are advantages because we can go look at records without any subpoenas. Adult Protective Services can get bank records without subpoenas. So, everybody works together in these cases. We work with Adult Protective Services, but if local law enforcement has a case and they can run with it, go. Sometimes there are credible witnesses, and it is clear cut. If there is a perpetrator and they can make an arrest and prosecute — go ahead. We

*As investigators, we have the responsibility of investigating provider fraud, not the recipient Medicaid fraud, but the provider fraud — doctors, psychologists, podiatrists — those entities.*

all want the same thing — good care of our people in the nursing homes and facilities.

**What constitutes elder abuse and neglect — what forms can abuse take?**

We look at issues differently. If it is a neglect issue, can it be neglect on the nursing home's part for not having the qualified training for the staff that is caring for them and not following the care plans? There are a lot of things that go into a neglect issue. As far as an abuse issue, we usually want to take any that are egregious acts. You have to have pain or injury. Pain, a lot of times, is hard to prove if there is no evidence of an injury — a bruise, a cut or something. So, it has to do with the definitions of abuse and neglect that are in KRS Chapter 209. That is the big problem we have in elder abuse is we look at

Chapter 209, and it is not in the penal code. In the penal code you have elements of crime. You have to have this, this and this and it is pretty clear cut. In Chapter 209 for abuse and neglect, there are not elements, there are definitions. The definitions are so ambiguous it comes down to who has the best argument. You have to have so many things to make a case. If you have your witnesses and your evidence, it is kind of like who has the best information to prove the event could have occurred.

It is very difficult in Chapter 209 to do an abuse and neglect case because of the definitions of those. However, we can also prosecute using the penal codes of assault — assault fourth degree. Those are more clear-cut. But, we try to make these into the elder abuse laws and use Chapter 209 because that gets documented into

the system and lets everybody know the magnitude of how this population is being targeted. If we put it in as an assault in the penal codes, it does not necessarily capture that it is an elder-abuse crime.

**Your career has been dedicated to serving elders and fighting their abuse. How did you get involved with this issue, and why are you so passionate about it?**

There are multiple reasons. When I was on the Jefferson County Police Department, Chief Bill Carcara wanted to start an elder abuse unit. I was a sergeant at the time. He wanted to have this unit, so I applied for it and, in 2000, I became the unit sergeant with three detectives. Our sole purpose was to investigate elder abuse in Jefferson County, and our focus would be to investigate abuse and neglect or financial exploitation of the elderly 60 and older who were targeted because of their age.

We started the first full-time unit in the state of Kentucky. It was on a grant when it initially started. When the grant ran out, it was so evident that it was really needed because of the statistics we were generating looking at these crimes, that the department absorbed the unit into its budget. Louisville PD had a part-time unit on elder abuse, so when the Louisville PD and Jefferson County PD merged in 2003, these two units merged and continued the full-time unit, and it progressed from there.

On a more personal level, I had parents who were elderly. Growing up, I remember my dad getting Publishers Clearing House and all this sweepstakes mail — we lived for the mail. I didn't realize that he had been a victim of one of those sweepstakes scams. We have a camera that he got as a consolation prize because he did not win the big prize. The consolation prize was a camera that takes 3-D pictures, and I still have it. I use it in talks. It is a knock off of a Nikon with a different name. It supposedly takes 3-D pictures, but you can't get film for it. So, I use that as a prop to teach people. My dad just kept thinking he was going to win. That is the mentality of many >>

◀ Investigators with the Attorney General's Office of Medicaid Fraud and Abuse Control, like Nikki Henderson, can have as many as 20 cases at one time. Each case can potentially take years to work because of the amount of documentation needed and the challenges that come with each investigation.



PHOTO BY JIM ROBERTSON

>> of these older folk, especially those on fixed incomes looking to supplement in some way. If they can get any money, they are going to fall for it. They are just such easy targets.

I had my parents as examples on so many things that I did not realize were scams at the time. If I had had that knowledge, I could have prevented a lot of that. My big go-to is prevention. I want to prevent people from losing their money because if I don't, once their money is gone, they will never get it back, and it is just pitiful. Research shows that if our elderly folks lose everything they have, if they lose their assets, they don't live that long afterward. It has a lot to do with trust and resources. They don't have the resources to maintain the healthy lifestyle they once had. So, it is really sad.

**When the chief decided to start the Crimes Against Seniors Unit, what were the needs he saw that sparked his decision to create this unit?**

He was really progressive as far as looking into the future and projecting what would happen. The baby-boomer generation was getting older. In 2006, a person was turning 60 every seven and one-half seconds. So, I guess he looked into the future to see where we should be going and where we needed to put our assets. The grant came about; they applied for it and received it. You don't know the magnitude of these cases until you start looking into them. Reporting is mandatory. We saw a big surge of reports, but I think it was always there, people just did not know to report it or to whom to report it. I think elder abuse has been there forever, and we just started to look at it. Then all the reports started coming in because people knew someone looked at them, so they needed to report it. I think he saw how the population was aging, and with that aging population come crimes that target them.

Research shows that a lot of elderly people have the majority of the money and the assets. They have the car and the house, and everything is paid for — and they have a lot of family members who want it. Family exploitation is the majority of the exploitation, I believe. The family members know what they have, and they know where it is.

**In 2010 you received the ElderServe Champion for the Aging Award. What is ElderServe and how does the AG's Office partner with ElderServe?**

They are a resource in the community that provides a lot of resources for our elders. ElderServe's Executive Director Harriet Friedlander is just phenomenal. As far as the AG's Office partnering with them, we don't really partner. ElderServe has limited resources on what they can do in our cases because a lot of our people are either in a group home or nursing facility. But, ElderServe is a resource to help the family if they are given power of attorney, for example. Many family members do not really know what to do with that. A lot of them try to do the right thing. It is not a given that because someone has power of attorney he or she is going to steal all the money. Though it is kind of like a license to do that, and we see it, there are good folks out there that just don't know what to do.

There are so many resources that we can use on anything, anywhere, and every

community's different on what resources they have. Louisville has just been at the top of the game because they have so many resources. The ElderServe organization is one of the best resources that provides services, training and all kinds of programs to help with elder issues. We don't partner, but we use their services when we can.

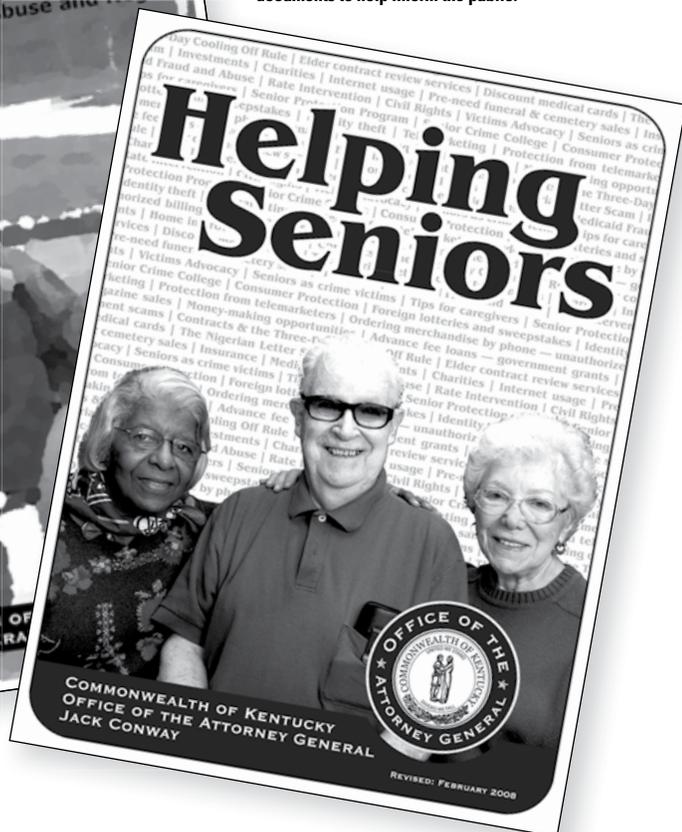
**How were you chosen for the ElderServe award?**

I guess it was my experience at the police department. At that point, I did community abuse, neglect and exploitation. I didn't target facilities because that's what Medicaid Fraud and Abuse Control Unit did. I was more in the community, and I had the opportunity to help build it up to what it is today by focusing on whatever issues there were. At the police department, we helped in the 2005 passage of the elder abuse law by interjecting what we saw in our investigations.

I'm totally honored with the award because some of the people who are the



▼ The Office of the Attorney General publishes dozens of pamphlets, booklets and other documents to help inform the public.



“  
*If you are convicted of a felony, you lose your license and are not able to be in the Medicaid program anymore. So, there is a lot at stake with these providers because that is their livelihood.*  
 ”

recipients of past awards are my mentors and my heroes — Dr. James O’Brien and Dr. Jane Thibault. When I was at the University of Louisville getting my master’s degree in social work gerontology, I did my internship with U of L family medicine, geriatric medicine. I worked under them, and I learned so much about aging that helped me in my personal life with my aging mom, but also with the cases of medical issues that I have now. I am not medical, I am law enforcement — I don’t know medical issues, so I have to rely on other people to help me. But, I learned so much about the aging process — what’s normal, what’s not normal — that helped me in my career. As far as how I received the award, I don’t know, but I’m honored. I guess, just work. You work and someone sees you’re trying.

**A June 2010 AG’s office press release, said that since 2008, the Medicaid Fraud and Abuse Control Office had tripled the number of abuse investigations and increased six-fold the amount of Medicaid fraud recovery for taxpayers. How has this been possible? What changes were made for such a dramatic increase in just two and one half years?**

Many of those were provider frauds because that is where you recover your money. I would say it was having our prosecutors take our cases through the courts and having some sort of plea agreement or conviction. At that point, it is always the money that we determine has been fraudulently obtained, and they are able to recoup for Medicaid. Not all cases are in trial. Most times it is going to be a plea agreement. Many facilities will agree to pay back money because they got caught. It depends on what it is whether they are going to lose their license. If you are convicted of a felony, you lose your license and are not able to be in the Medicaid

program anymore. So, there is a lot at stake with these providers because that is their livelihood. It is very delicate as to what they are going to agree to. But, we definitely want that money back. Our Medicaid system is really bad. We try to focus on getting that money back, but also we want to put people out of those programs if they are going to steal from it.

**Has obtaining prosecutions gotten progressively easier as laws are enacted and people get more used to them?**

It depends on what the case is and what your evidence is. It is so hard to prove intent because their defense is, ‘It was an accident.’ They will say, ‘My billing officer put the wrong code in.’ You have to prove that they did it fraudulently, and that is very difficult to do. These cases are extremely hard. They are time consuming. It takes a long time to get all the evidence you need to get the case to where they absolutely knew what they were doing, and they did it anyway.

**What would you say is a typical length of time you would spend on a case? How many do you have ongoing at one time?**

We’re not talking days, we’re not talking months. We are talking years. For a fraud case it takes a very, very, very long time.

We divided our state into an east side and a west side for our investigators. There are five for the east and five for the west. We pick our cases accordingly. Some of them are in different areas, so we try to help assign investigators cases that are closer to them. There are two of us in Louisville, but I have a case down in Paducah. It just depends on the luck of the draw what you get. We could have between 10 and 20 cases, and then in the mean time we get those preliminary cases to where we are not sure if there is anything to them, so we have to do some investigating on those to see if they meet the criteria before we can go any further. We get a lot of those.

When we get a complaint, it is one sided. We cannot make a determination whether it is something we are going to work or not by just hearing one side. We have to look further into hearing the other side, putting it together and seeing where we go with it. We will work with Adult Protective Services because they go out very quickly, especially on abuse and >>

>> neglect cases. They get the complaint and depending on seriousness, they can go out the same day. They know first hand the jeopardy of the victim or client, as they call it, and they have put together a good report already. We work really close with them because we respect their opinions on what they saw and thought. It helps us get a jump start on whether this is going to be a case we are going to investigate or is this one that is regulatory in nature. We do not do regulatory cases. If a facility is not following rules and regulations, it falls under the inspector general's responsibilities. Sometimes it can work to our advantage, that because somebody broke a rule and somebody was seriously injured, we can use their information to help us. But, we all work independently and file our own reports because we are looking at the cases differently. We are looking at it criminally.

**What are some of the challenges the Office of Medicaid Fraud and Abuse Control face in serving and protecting the elderly population?**

When we use Chapter 209, the way the law is written is very challenging to interpret and is very difficult for us.

As far as challenges in Medicaid fraud cases, I guess having a small amount of people makes it difficult to concentrate on each case individually and give it as much attention as you should. The investigators we have here do that, they give it the best of their ability. They work really hard at trying to keep up with all of their cases. It is very challenging because the cases are just so time consuming. We

try to keep up with all of the cases to keep them current. We have to really multitask. We are taking phone calls on one case while typing another one. We are waiting on phone calls from people that we need to talk to, but they are off work. It is just hard to get everything you need on a case. So, they are just very, very challenging. We are the only unit in the state that deals with this issue and there are not a lot of us. I think the laws are very vague. They are definitely ambiguous. It is gray, it is not black and white and that is very challenging because we have to argue for that black and white.

**What have been pivotal moments throughout your career that have led you to where you are now?**

The one thing that is really good about these cases is when the media gets involved. We, as a culture, place so much stress on animal abuse. They just had a puppy mill found and everybody is up in arms, and people came out of the woodwork to be foster parents. We spend so much time on, and everybody is so sensitive to, animal abuse. We don't have that with elder abuse yet. We don't see that public outcry of, 'Oh my gosh, I can't believe that happened.' But I'm starting to see more elder abuse news stories, which is starting to educate people. I like that for two reasons. One, it tells people that these crimes are being investigated, and they might not be able to do that to their mom. It can be a deterrent. Two, it is also good to show the public what is actually occurring and get people to be more sensitive to our elderly, and how some people are treating them. I'm starting to see more cases in the news and people are starting to become more focused on how horrific this is.

For example, seeing Mickey Rooney and his family, they stole everything. Mickey Rooney spoke at the University of Kentucky via satellite, and he talked about how his family totally exploited him and took everything he had. It was just horrible. When you see these people, you realize it could affect anybody. It is not just poor little old Ms. Smith down the street, it could be Mickey Rooney — it could be anybody. I think it starts to get people to see that this is a bigger problem than they ever thought.

Look how we are with child abuse. Child abuse used to be disciplining your

“Mickey Rooney spoke at the University of Kentucky via satellite, and he talked about how his family totally exploited him and took everything he had. It was just horrible.”

kid — look where it has come. We have to do the same thing with elder abuse. And, it is not there. The more attention it receives, it continues to go forward. We might step back a couple times, but we are going forward. Every time we get a prosecution, every time the media makes a case and says this is what we're seeing in this county, to me, that's pivotal — knowing that it is going forward and is getting attention that it did not get before.

You lose some cases, but I will give you an instance on what has happened. I had a case in a local facility. We prosecuted a behavioral analyst for allowing the subject to bang her head on the floor more than a hundred times. It was horrible. Can you imagine letting someone bang her head on a concrete floor, not a carpeted floor? Well, he considered it therapy. We lost that case, and I really got upset and disheartened because of it. The perpetrator was a very well-respected, educated behavioral

analyst. The jury liked him. I liked him. Our victim was a ward of the state. I could not prosecute this guy. However, they changed the policy in the facility from then on. They can no longer do negative behavioral analysis. That was a negative behavior instead of a positive one, so they changed it. We didn't win, and that's OK, because they changed the policy, so no one else is going to have to go through that.

I might not have won the court case, but seeing policy change for the good, I was OK after that. If you effect change, that is what we are all about, just make it better. That's my pivotal moment — along with getting public attention.

**What do you love most about what you do?**

I like being involved in this issue, because I see where it is going and I want to stay current and, hopefully, make a difference with it. If I'm not in it, I can't do anything about it. But, I have an opportunity

to make a difference. I know that's probably a cliché, but I have a chance to do something to make it better. I have a mom who's 86, she still works in her green houses, she's still very active, and I'm right behind her, so I have to make sure that things are in place to protect all of us when it gets to that time. I have the opportunity to do that. I'm going to stay as long as I'm physically and mentally able to do it.

**What is one piece of advice you would give to law enforcement officers on the topic of dealing with the elderly?**

They need to be conscious of the signs and symptoms. Every time they are at a run for any kind of complaint, they have the opportunity to intercede or recognize that somebody there is a victim. 🍷

Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.



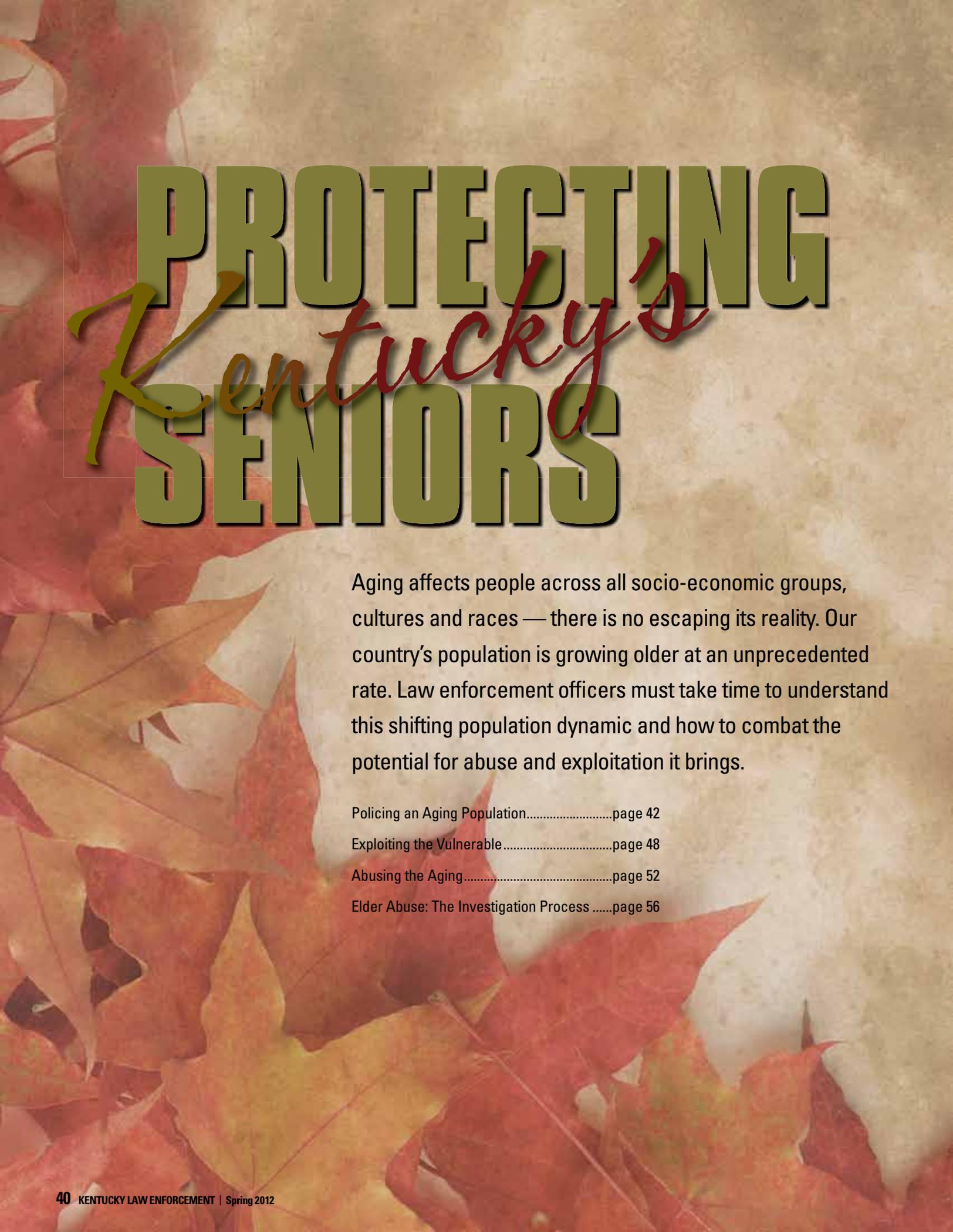
Nikki Henderson has spent the majority of her career fighting against elder abuse. She served as sergeant over the first Crimes Against Seniors Unit created in 2000 at the Jefferson County Police Department.

PHOTO BY JIM ROBERTSON

## Mickey Rooney's Story

Mickey Rooney, who began as a child star and acted in more than 200 movies gave an emotional testimony before a senate panel on elder abuse in March 2011. Rooney, 90, charged two of his step-children with taking his money, denying him his medication and withholding food. Rooney said his step-children had bullied and threatened him, making him "effectively a prisoner in his home." To view part of his testimony before the senate panel, scan this QR code with your smart phone or go to [http://www.youtube.com/watch?v=ST\\_7kf7UCqw&feature=youtube\\_gdata\\_player](http://www.youtube.com/watch?v=ST_7kf7UCqw&feature=youtube_gdata_player) ■





# PROTECTING *Kentucky's* SENIORS

Aging affects people across all socio-economic groups, cultures and races — there is no escaping its reality. Our country's population is growing older at an unprecedented rate. Law enforcement officers must take time to understand this shifting population dynamic and how to combat the potential for abuse and exploitation it brings.

Policing an Aging Population.....page 42

Exploiting the Vulnerable.....page 48

Abusing the Aging.....page 52

Elder Abuse: The Investigation Process .....page 56





# POLICING *an aging* POPULATION

From 1980 to 2010 Kentucky's overall population increased by 18 percent, yet the population of individuals age 65 and older increased by 40 percent.

ABBIE DARST | PROGRAM COORDINATOR

**A**s a nation, our collective population is beginning to show its age. The Baby Boomer generation — born between 1946 and 1964 to post World War II parents longing to settle down, raise a family and live a simple, successful life — began to reach the standard retirement age of 65 in 2011. And now, a generation that has been so instrumental in the dynamic advancements of our culture during the past several decades, is embarking on a new frontier as they transition from baby boomers to senior citizens.

Nationally, the older population is expected to double from 36 million in 2003 to 72 million by 2030, according to the U.S. Census Bureau. That trend already is evident in Kentucky's population as well. From 1980 to 2010 Kentucky's overall population increased by 18 percent, yet the population of individuals age 65 and older increased by 40 percent.

As the faces of Kentucky's communities change, law enforcement agencies across the commonwealth are faced with new issues and challenges in policing the communities they serve.

"You hire (officers) to work the community you live in," Benton Police Department Chief Tracy Watwood said. "Obviously, we know we have a lot of senior citizens here, so we need [officers] who can stay calm and deal with senior citizens at times."

Benton is located in the heart of Marshall County, which has the third highest percentage population of people age 65 years and older in the state, according to a 2010 census summary. Because of the Land Between the Lakes area, many counties in the western part of the state have become a kind of retirement mecca, boasting higher than average elderly populations. Law enforcement agencies in these areas have learned to specialize in meeting the needs of the seniors that are such a large portion of their communities.

## TAKING THE TIME

For an assortment of reasons, oftentimes, senior citizens live alone. Either they've moved into a community for retirement, leaving behind other family members, or their spouses have passed away, leaving

**N**ationally, the average population age 65 and older is 13 percent. The following states have the highest percentage populations age 65 and older:

- Florida – 17.3 percent
- West Virginia – 16 percent
- Maine – 15.9 percent
- Pennsylvania – 15.4 percent
- Iowa – 14.9 percent
- Kentucky ranks 30<sup>th</sup> with 13.3 percent of the population age 65 and older. ■

them alone in a home they've shared for decades. Sometimes their children and grandchildren leave home in search of further education and better career opportunities. Regardless of the situation, elderly individuals living on their own have unique needs that can affect their relationship with local law enforcement.

In Kentucky, 2010 census information designates Lyon County as holding the highest population percentage of people age 65 and older. This comes as no surprise to the Eddyville Police Department. A city of only about 1,500 residents, which nearly triples to around 4,000 in the summer months, Eddyville features several communities that are almost exclusively populated by senior citizens, Eddyville Lt. Jaime Green said. The Eddyville Police Department sits right in the middle of a housing authority with a large number of elderly residents. Officers have a great working relationship with the housing director and the agency has a key to every residence in the housing area.

"If we have any kind of medical emergency, we can take the key and open the door instead of kicking in the door or breaking out a window to get inside the home," Green said. "Many of our residents will tell us, 'If something happens to me, my (phone) list is in my cabinet, or my meds are in here.' We go with EMS on calls and [that information] is great for us and saves them trouble, too."

"We get out and know the public and find out who they are, what their needs are and what they are lacking," Green continued. "You learn who they are, who they are related to."

Knowing how to quickly get to and help the aging members of their community is

imperative to those who don't have family close by to check on them and make sure their needs and concerns are met. But beyond ensuring their health needs and demands are met, there also is a social and emotional need that is left unfulfilled because of the loneliness that comes with isolation.

"Sometimes they just want someone to talk to," said Eddyville Officer Brooks Dixon. "Their family doesn't come over. That's what we're here for. When you live in a community that has a lot of elderly people, that is part of your job."

Green agreed, remembering one woman, during her time with the Louisville Police Department, who called the police department every night just because she wanted someone to talk to.

"Sometimes our elderly people just need an hour or 30 minutes to talk to someone," Benton's Watwood said. "No matter what the problem is, it is huge to them at the time."

"Policing in Benton is just a little bit different than policing in Louisville or

Lexington," he added. "We are blessed that we have the extra time to stay on a call. We go in and we take care of the call, get the information we need, and then they might want to talk. If we aren't busy and don't have to go, we are blessed to be able to sit down and talk. It takes a little longer to do the job, but everybody leaves happy and everybody is satisfied with the end result."

Not only do seniors want to talk, they want to know they are being listened to as well.

"A lot of times, senior citizens just want to be heard, want to know that not only are you listening to them, but you are hearing them and understanding their needs," Watwood said. They want to know and be comforted that you will listen to them and you appreciate them."

"It's a much slower pace and more personal experience for policing," added Benton Officer Stephen Sanderson.

In general, law enforcement officers must exhibit a great deal of patience no matter what age group they are interacting with, but with seniors they tend not to give the information as fast, Green said.

"You have to decipher the phone calls on what it is they are calling about and what they are saying the problem is," she said. "You have to have the patience. You treat them just the same — not any different — but if you listen to them, you'll find that they may or may not have a crime that's been committed." >>

► Benton Police Chief Tracy Watwood takes pride in serving a community with a high senior citizen population. He understands the needs of his community members and he and his department strive to provide the best service they can.

PHOTO BY JIM ROBERTSON





Eddyville Police Lt. Jaime Green visits Kenny Martin, an elderly gentleman in the community. Martin walks the neighborhood surrounding the police department nearly every day and has developed a strong rapport with Green and the other Eddyville officers.

PHOTOS BY JIM ROBERTSON

>> Green and Dixon have experienced cases where elderly individuals called to report a break in because their wallet was missing or believed someone or something was in their attic, when in reality they had simply misplaced their wallet or early stages of dementia caused them to believe someone was in the house.

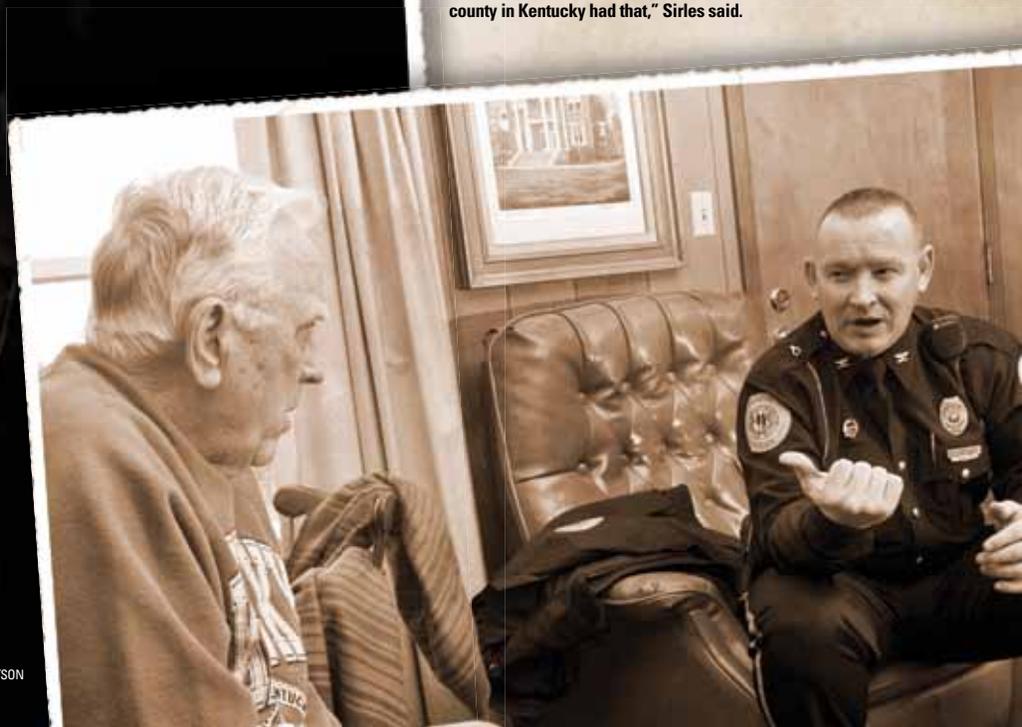
“It’s not that a crime has been committed, but if you will listen to them ... you will resolve the issue and their fear,” Green said. “What they felt was a need or whatever reason made them call 911 or us, you will satisfy and meet their expectations.”

Unfortunately, there are times when officers will have to make the difficult decision that an elderly person to whose home they are constantly making runs, may not be able to care for themselves any longer. Agencies in areas with high elderly populations usually already have a good working relationship with Adult Protective Services, and officers can refer those cases to them.

“They don’t want to go to a nursing home or assisted living facility — they feel they can live in their home by themselves,” Green explained. “We’ve had cases where we call Adult Protective Services and tell them, you are going to have to do something because they cannot live here.”

In the 10 years Green has served in Eddyville, she has seen several residents who

▼ Benton Police Chief Tracy Watwood talks with Wilburn Sirles. Sirles says that the Benton Police Department has a great relationship with senior citizens in the community. “I wish every county in Kentucky had that,” Sirles said.



have had dementia set in, and gradually have gone down hill, she said. She had one call at 4:30 a.m. to a woman's home. The woman said that if her dog blinked one eye, it indicated to her someone was trying to get into her home, which is why she called the police.

"When I arrived at her home she didn't recognize me," Green said. "Though I've dealt with her often, I've seen her out and about a lot, she didn't know who I was. So, I knew. When we see those situations, we contact Adult Protective Services and we go out and talk and see what the next step needs to be."

### IN THE FACE OF CRISIS

The ice storm that devastated Kentucky in January 2009 proved an enormous challenge for numerous agencies, especially in the hardest hit, western part of the state. Many towns were without power for days, if not weeks. Benton was without power for 13 days.

"We woke up to it," Watwood said. "We realized real quick that people didn't have food, didn't have gas. I understand that we only have 5,000 people, but when you have 5,000 hungry people, you have a problem."

Just like other communities across the state, Benton had no access to gas for emergency vehicles and they had to come up with generators to run major facilities. However, in addition, they had a large population of elderly citizens for whom power outages put more at stake than figuring out what they would eat. Many were on oxygen or needed dialysis and immediate relief from the chill that quickly began settling into homes.

"We had never experienced anything like that and we didn't have a plan, and that was our fault," Watwood said.

The department, along with other city entities, managed to get a shelter up and running within the first six or seven hours of the day. Then, officers began to go door to door checking on the elderly people they knew and heard about through word of mouth, he said.

"It was chaos, unorganized chaos," said Benton Fire Chief Harry Green. "All in all it worked out and we learned so much."

After that experience, Green created a special needs form that members of the community who have special needs can fill out. This lets the fire and police

*Among issues associated with policing an aging population, questions of one's ability to drive rises right to the top.*

departments know exactly what the needs of their community members are and where they live in case of another disaster — regardless of its magnitude. They partnered with city utilities to print on everyone's utility bill that they were beginning this program and to contact the police department to obtain a form. Green tries to hand deliver all the requested forms, and offers to help them fill them out right there in their home, Watwood said.

A database was created to hold all the information on the forms, and Green is responsible for keeping the list up to date.

"Obviously, we're dealing with senior citizens, so about every three to six months, he'll go through the list and call the numbers and make sure people haven't moved into a nursing home or aren't deceased," Watwood explained.

In addition, the police department divided the city into seven sections, one for each officer, and they have their share of individuals on these forms with whom they are responsible for contacting and building a relationship. They know exactly where they live, what their needs are and what their resources are, including whether they have any family members close by to help take care of them in situations like the ice storm, he said.

"I'm so proud of the city I work for because in times like that we pull together," Watwood said. "Anything the elderly need around here, they get and that's the way it should be."

Eddyville faced similar challenges during the 2009 ice storm. In their small town, many officers had done the leg work in their communities, and were well aware of the extended needs of their seniors in such a crisis.

"Getting to know your community — that's the main thing," Eddyville's Jaime Green said. "You know who needs help,

who runs on oxygen, who's going to need assistance.

"When we had the ice storm, we knew which residents had oxygen and how much, Green continued. "We worked on getting them a generator or getting them somewhere where they could get the care they needed. That worked really well for us."

Eddyville was able to set up the elementary school as a type of hospital. Anyone who was on oxygen, bed bound or in a wheelchair was placed there. They had a doctor on hand 24-7, and registered nurses available. Once these people went back to the nursing homes, the police helped transport them back, Green said.

### DRIVING A THIN LINE

Among issues associated with policing an aging population, questions of one's ability to drive rises right to the top. Elderly driving is a topic that sits on the cusp of two important, yet potentially conflicting issues. If an individual's capabilities have waned to the point it impairs their ability to drive, they potentially can be a danger on the roadways, both to themselves and others with whom they share the road. There are numerous stories of seniors who have gotten in their car to drive somewhere, gotten confused and driven hours away from home, completely unaware of where they were or how they got there. Or worse, they run off the road and seriously injure or kill themselves.

However, most law enforcement officers realize that the ability to drive may be the only source of freedom seniors have left. Whether it's a grandmother driving to the beauty salon for her weekly appointment and social hour, or a couple heading out of town for a day of shopping, many seniors rely on driving as their only means to get out of the house for socializing or simply buying needed groceries. >>

“Despite the challenges associated with policing an aging population, there also are numerous benefits senior citizens offer to both their community and the police department.”

» In Eddyville, there was an elderly man who lived in the housing district where the police department is situated who used to drive to the local gas station in the mornings for coffee and breakfast, but couldn't remember how to get home. Though he lived just a few blocks from the gas station, and drove there nearly every day, he routinely had to call law enforcement officers who would drive to the gas station and let him follow them back to his home.

“When I patrolled a lot, I would keep the forms to have them retested for their driver's license in my cruiser,” Benton's Watwood said. “But then I started second thinking that because the ability to drive is their last freedom. It's a sad thing when they don't have family here and they rely on that vehicle to go get food.”

Statistically, Benton used to be the No. 1, 3 and 9 places in the commonwealth for wrecks, and a lot of that was a factor of elderly, inattentive driving, he said.

Cadiz faces similar issues. A large percentage of the city's minor accidents involve individuals born before 1940, Cadiz Chief Hollis Alexander said.

“They don't need to be behind the wheel because they are a danger to themselves and other drivers,” he said. “But as a

department, we have a problem sending in the paperwork to have them reevaluated (or retested) on their driving. It's almost like taking any last hope of life they have away from them.

“But you may just be worried about safety,” he continued. “It's a safety issue for the whole community and themselves.”

Alexander said they sometimes have younger community members that come into the department and say one of their loved ones really needs to have his or her license taken away, but they don't want him or her to be mad at them. They ask if the police department can do anything to help.

“They say, ‘That's your job,’ and sometimes we have to play the bad guy,” he said. “There are a couple of people that I think respected me, but died mad at me because my name was on that line that had their license taken away.

“In the back of my mind I think, ‘Should I have done that or not?’” he added. “But when I think about the law — yes, I should have, because it may have saved their life or someone else's.”

#### ‘A GREAT SOURCE’

Despite the challenges associated with policing an aging population, there also

are numerous benefits senior citizens offer to both their community and the police department.

“A lot of people are timid around the elderly just because they are elderly, but for a police department they are a great source of information,” Eddyville's Dixon said.

“They watch,” Eddyville's Green added. “They are home all the time and they pay attention to what's going on — who's seeing what neighbor, who's going where. ... Sometimes they know way too much.”

The Benton police fully recognize the benefits of the elders in their community. Wanda Morris, one of the elderly women in their community first called on the police during the 2009 ice storm because she had trees that had fallen, blocking both her front and back entrances and she couldn't get out of her home. She said that within two minutes she had three cruisers in her driveway. To this day, to show her appreciation for them, she will bake pecan pies for the officers at the department.

“They did for me, so I do for them,” Morris said. “When they get into their cruisers they are risking their lives for us. I feel like they are my boys.”

“She's a good citizen to have,” Benton Capt. Jeromy Hicks said. “She says she's blind, but she knows what all the neighbors are doing and when. When we talk to her, she'll say, ‘So and so is having extra company,’ and she lives in one of those neighborhoods where we probably need eyes there watching some of her neighbors. We have a lot of those (kind of citizens) throughout our community and it is an extra help.”

Not only are seniors eager to talk about what is going on around them, Watwood said, they also don't hesitate to let the police department know what they think the department needs to focus on or how it can improve in areas.

“Senior citizens are a huge part of this community,” he said. “We value their input.”

In Hickman County, input from seniors has led to the development of a neighborhood watch program. The elderly in the county began asking for neighborhood

► Benton resident, Wanda Morris, bakes pecan pies for her local first responders to express her gratitude for the great service they provide her. In turn, Morris also provides local law enforcement with valuable information on potentially criminal behavior of some of her neighbors.

According to U. S. Census Bureau, the overall population for the United States increased by 9.7 percent from 2000 to 2010. However, there were two groups that experienced the largest growth: Ages 45 to 64 grew by 31.5 percent — the large growth in this age group is primarily due to the aging of the Baby Boom population. Ages 65 and older grew by 15.1 percent ■

watch programs last year due to concerns with drug sales in their communities, Hickman County Sheriff Mark Green said.

“They watch TV and they know what’s going on,” he said. “They say, ‘There’s a house across the street and they have cars coming and going every 20 minutes and they only stay for five minutes at a time,’ and the houses they are reporting, sure enough, have drug activity.”

Successfully policing the elderly populations in any community boils down to one thing — officers must know their communities. Whether officers periodically check on their elderly residents while driving through neighborhoods, or form relationships with the local senior center and help serve meals to the seniors, like the Eddyville police officers do every once in while, knowing them and knowing their needs is essential to providing them the best service possible.

“We are so proud of them and glad they are here, and they mean so much to our community,” Watwood said. “It’s like having a city full of grandparents. I am proud of our community and I don’t know that I’d have it any other way.”

---

Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.

---

Hickman County Sheriff Mark Green talks with the former Hickman County sheriff, who now resides in a nursing home, suffering from Alzheimer’s disease.



# EXPLOITING *the* VULNERABLE

Abuse of a corpse is only a misdemeanor charge.

ABBIE DARST | PROGRAM COORDINATOR

In a small, dark house in the heart of Louisville, Julius Harris sat — holding the responsibility of caring for his elderly mother. Addicted to crack cocaine and mired in greed, Harris left his mother alone in the back room while he stole her social security checks, cashing them to feed his habit. Other family members, beginning to wonder if something was wrong, probed Harris with questions about his mother. He always had a story, an excuse, a reason why she was unavailable. Soon, the stories his drug-addicted brain began to spin made less and less sense. He'd say his mother was

off traveling with friends, though her family members knew she had been bedridden for quite a while. Finally, in an act of desperation, the police were called to Harris' house to check on his aging mother. When officers arrived on the blustery November afternoon to the home, Harris flung open the door with a gun pointed at his own head, and slammed the door again just as quickly. Immediately SWAT and hostage negotiation teams were called out and the whole area was cordoned off with police and K-9s in what became a seven-hour stand-off before Harris finally surrendered.



PHOTO BY JIM ROBERTSON

Police barreled into the home in search of Harris' mother. Their search was stopped cold when they entered her room and found that Harris' elderly mother was lying deceased in the bed — and had apparently been there for months. It was soon discovered that the woman had died six months prior, just three days after Mother's Day, but Harris had continued to live in the home, reporting nothing of the death and continuing to cash eight social security checks on his deceased mother's behalf.

"His mother died in May, and he had a decision to make," said Louisville Metro Police Detective John Fogle, who serves in the Crimes Against Seniors Unit. "He could have called the coroner's office, police, whatever. But he made another decision to let his mother lie in bed and rot for six months and continue to cash her checks.

"She was decomposed to the point that we [couldn't] even do an autopsy to get an accurate cause of death," he continued. "This is one of the cases that really irritated me because, he didn't care about his mother whatsoever, he didn't give her a proper burial, and it was just considered a financial crime."

Though many cases of financial exploitation aren't nearly so graphic and don't end in such dire ways, financial exploitation of senior citizens is the most prominent form of abuse imposed on seniors in our society.

The exploitation is probably the biggest [form of abuse] and probably more unreported, said Office of the Attorney General Investigator Nikki Henderson.

"It is usually done by family members, and they are not the ones who are going to report it," Henderson said. "I think the exploitation of them — stealing their funds or assets, turning over their home, signing over their wills, changing their wills — I think there is a lot of that about which we will never know."

It is a sad realization that often an elderly individual's family members — son, daughter, grandchild, nieces or nephews — are the one's targeting and exploiting them, but seniors are easy targets for family because they know what they have and what the money situation is, explained LMPD Sgt. Jerry Thornsberry. Family members are the ones who are close enough to the situation to know exactly where someone is the most vulnerable.

**W**hen an elderly individual goes to a facility and he or she has no money, the state looks back five years now to see if the person qualifies for Medicaid. If they can determine that the person had money, but it was stolen, or it wasn't appropriated correctly, then that is an issue. ■

"If a relative has a condition that makes them vulnerable, a family member or trusted person in their life takes advantage of that and steals from them," Thornsberry said. "By the time someone becomes aware there is a problem, you've got a real problem. We've seen cases where entire savings have been liquidated from an account by a family member.

"We call it financial exploitation, but that is just a fancy term for theft," he continued.

"We get million dollar cases in here — we get cases where the dollar amount is ungodly," Fogle added. "[The exploitation] goes back years and we can only get so many bank records to justify the case."

Despite the many criminal cases of financial exploitation that the detectives in Louisville Metro's Crimes Against Seniors Unit work, they also receive cases that are more civil in nature, where family members don't agree about the way a loved one's finances have been handled by another family member who holds the power of attorney. In many cases, figuring out where the line lies between exploitation and receiving a fair amount of money for the care someone is providing is difficult to navigate, Thornsberry said.

"It has to be clear," he said. "If you are taking care of someone, you are entitled to receive something for that care — whatever that may be. So it has to be clear, the exploitation aspect has to be [they are] buying a boat or a car ... but taking a couple hundred a week for expenses [is different.] Because what does care cost outside of the home — \$20 to \$30 an hour? So, figuring out what is appropriate is difficult."

The unit even receives cases where people are fighting about money and how their elderly family member is choosing to spend their money to benefit another person.

"Unless a person has Alzheimer's or dementia and are being coerced, it is not a crime," Thornsberry said. "A competent adult can do whatever they want with their

finances. You'd be surprised what that level is sometimes, but it is what it is."

### WHAT'S THE GOAL?

When working financial exploitation cases against vulnerable senior citizens, officers want to make sure victims get justice in some form, and perpetrators are punished. In most financial cases, officers are looking for restitution to the victim, Thornsberry said. Though this isn't always an easy task.

"When people take the money it's not going into an IRA," Thornsberry said. "They're blowing it. But [restitution] is a big goal. Most of the time, they don't go to prison, they get probation. We may get a felony conviction, but they don't go to prison, so restitution is huge."

In the case of Julius Harris, he was charged with financial exploitation and abuse of a corpse for allowing his mother's remains to decompose in the house while he continued to steal her social security checks. Abuse of a corpse is only a misdemeanor charge. Harris only received one year, and that was probated.

"I almost lost it that day and threw my badge at somebody," Fogle said about Harris' verdict. "The odd thing about that case is that after he was out, he got popped for a DUI and ended up doing more time on the DUI charge than for what he did to his mother."

Financial crime sentences are based upon the amount of money taken and a financial crime, unless it's a robbery, the max a perpetrator can receive is 20 years — and that rarely happens, Fogle said.

In addition to sometimes light sentences, officers also face the difficulty of getting victims to press charges at all. When a parent or grandparent discovers they have been exploited by their child or grandchild, often they choose not to press charges because they do not want their child or grandchild to face the consequences of potential jail time, Fogle said.

Fogle had a case where an elderly woman named Juanita Stone lived in a nursing >>

**T**here are nearly six million cases of elder abuse every year. That's approximately one case every five seconds. Unfortunately, many of these cases will go unreported. According to Elder Assistance Daily's projections, California continues to be the state with the greatest number of elder abuse cases in the U.S., with 36 percent more than that of Florida, a state with the second greatest number of elder abuse cases. EADaily.com estimates that Kentucky has more than 87,000 cases of elder abuse each year, including reported and unreported cases. ■

>> home and her granddaughter, Casey Jarvis, was her power of attorney. At one point, the nursing home contacted Adult Protective Services because the nursing home bill was not getting paid, and Stone was in danger of being evicted. Though the nursing home had tried to contact Jarvis, she blew them off and didn't return calls. Once Fogle got involved and subpoenaed bank records, he said it was obvious what was going on. There was enough money each month to pay all the nursing home expenses and then some, but Jarvis was blowing the money.

"All she had to do was pay the nursing home bill, but Casey had other ideas," Fogle said. "She decided to squander all the money and piss her [grandmother's] life savings away."

However, in this case, Fogle said Stone shocked him because she was the exception to the rule and actually wanted to press charges.

"She said, 'All she had to do was ask,'" Fogle recalled. "All my granddaughter had to do was ask me for that money and I would have given it to her."

But instead, with no remorse, Jarvis admitted to her actions, Stone pressed charges and Jarvis received five years.

### TAKING ADVANTAGE OF TRUST

Stone's comments about her granddaughter drive home the central reason why so many seniors fall victim to not just exploitation by family members, but also a plethora of scams targeting the elderly population.

"Seniors are more trusting," Fogle said. "Someone can knock on their door and if they have a reasonable reason for being there or needing money, they'll cut a check without hesitation."

In Cadiz, an elderly man's trusting nature led him into an exploitive relationship that cost him thousands of dollars and his peace of mind. The 77-year-old Andrew Thomas had lost his wife to a battle of cancer about one year prior.

Alone and searching for a way to fill the void he felt, he began chatting with a woman in South Carolina on a social networking website. Soon, the 50-year-old woman who befriended him came to visit, solidifying what he thought was a genuine interest in him and in their growing relationship. Shortly after this meeting over dinner, the woman began telling Thomas about all the problems she was having and the things that were going wrong in her life, and she started asking him for money to help her out. Between sob stories about her mother passing away, possibly losing her home and the special needs of her son, Thomas was persuaded to help her however he could to get through these tough situations. He began withdrawing money from his bank and wiring it to her in Myrtle Beach, S.C.

"[He] was going to the bank to do something good for someone who acted

like they cared about him," Cadiz Police Chief Hollis Alexander said about Thomas' actions.

Between mid February and early March 2011, he had made five transfers to his new female companion for a total of \$12,791. On his way to make a sixth transfer for another \$3,000, one of his daughters was tipped off by a bank teller about his unusual bank withdrawals and she intercepted him at the local Western Union before the transfer was complete. She told him she was suspicious of the woman's intentions and notified the police.

"She told me, 'There's probably nothing we can do, but I wanted you to know,'" Alexander said about the daughter's phone call. "I said, 'This is new to me but we'll do all we can,' and we began an investigation."

With the help of Detective Michelle Kent with the Kentucky State Police Drug Enforcement/Special Investigations West and Lt. Steve Cox, an investigator in Conway, S.C., just outside of Myrtle Beach, Alexander was able to locate the woman. By May 17, 2011 she was arrested and in custody in Cadiz. She pled guilty and was ordered to pay restitution for all of the nearly \$13,000 she had stolen, at the rate of \$400 per month.



“This exploitation was the first case that involved more than just a minor theft from an elderly person,” Alexander said. “We have a lot of scam calls and people falling for stuff, but this was the first time I realized that someone had lost \$13,000.

“It took my heart and soul ... and I felt so sorry for the family that they had been taken,” he continued. “It was a challenge to see if I could [work the case] because it was new to me and because of who it was. I wanted to succeed, and I think I did with the help of the detective in South Carolina and our KSP here.”

Though this was a new type of potential scam for the Cadiz Police Department, the idea of scams targeting the town’s large elderly population was not new. Everyday, in towns and communities across the commonwealth, elderly individuals are preyed upon by smooth-talking, illegitimate contractors, promising sweepstakes scams, or persuasive phone calls soliciting money.

There are a plethora of scams out there that are set up to look like sweepstakes. For an older population who may be on fixed incomes and looking for any way to supplement their incomes, they are an

*There are a plethora of scams out there that are set up to look like sweepstakes. For an older population who may be on fixed incomes and looking for any way to supplement their incomes, they are an easy target.*

easy target. Some of these come through the mail like Publisher’s Clearinghouse-type solicitations. Others are received as phone calls with predators asking for money for anything from supporting local law enforcement to helping get their grandchild out of jail in Mexico. One of the most popular scams recently is scam artists out of Jamaica telling the person they have won a large sum of money, but first they have to cash a check and send back a portion of the money for handling fees.

“People think, ‘Who would be silly enough to fall for these?’” Thornsberry said. “But, they are targeting people who may not be in the right frame of mind anymore. Once they know they have someone like that, they don’t stop at \$500, they keep going. The scam will morph into almost a personal relationship. We’ve had victims who have almost lost \$100,000.”

In the summers, many agencies see a rise in contractor scams on the elderly. Contractors will come to the door and point out deficiencies in the person’s home, such as a driveway needing to be sealed or shingles that have blown off a roof, and offer a low price to fix those things immediately.

“That’s a challenge with the elderly because they cannot get up on the roof and see if the roof is bad or not,” Benton Police Chief Tracy Watwood said. “The [contractor] will intimidate them to the point that they will say fix it, or seal the

driveway because they don’t want their home destroyed.”

These so-called companies are fly-by-night operations that move into and out of town quickly and rarely stay long enough to get caught, only long enough to make some money, Watwood said.

As an answer to many of these scams that seem to be reoccurring frequently, with slightly differing details, many law enforcement agencies across the state use local newspapers and radio stations to get out the message to their elderly populations. They will tell what scams they have seen and warn them not to fall for them, and to notify the police if they believe they have been targeted by a scam.

“The message we try to get out to our senior citizens is, ‘You are not bothering us — call the police department, that’s what we are here for,’” Watwood said. “‘We can’t help if you don’t contact us.’ So we have to educate them and allow them to educate us so we can meet in the middle. That helps us do our job and helps them feel better protected.”

With continued education about the potential scam dangers that exist and putting in the work to build trust in their communities, law enforcement agencies across the state are working hard to keep the senior citizens in their communities from being victimized, ripped off and left with only a shred of the financial security they once built for themselves.

“I just remind them that anyone can be a victim,” Watwood said. “Just don’t make yourself an easy victim. Try to protect yourself and your property the best you can.”

Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.

◀ Cadiz Police Chief Hollis Alexander looks over case files with Mr. Andrew Thomas who was financially exploited by a con-woman who stole nearly \$13,000 from him. This was the largest exploitation case Alexander has worked in his 16 years as Cadiz chief.



PHOTO BY JIM ROBERTSON

# ABUSING *the* AGING

The 107 serious citations issued in a three-year span involved 18 deaths and 30 hospitalizations. Only seven of the citations resulted in criminal charges.

**ABBIE DARST** | PROGRAM COORDINATOR

**A**n issue affecting between 1 million and 2 million Americans, elder abuse is an under-recognized problem plaguing our society, the consequences of which are devastating and even life threatening to a frail and sometimes defenseless population.

Every day, headlines throughout the United States paint a grim picture of seniors who have been abused, neglected and exploited, often by the people in their lives they trust the most.

There are stories of seniors who have strangled in bed-rail slats because no one checked on them at a nursing facility, or those who have died from infected bed sores that ate through their body from the inside out. Elderly men and women who have lost everything and sit alone, raggedly clothed and suffering because their family stole their money and left them with nothing.

There is no upside to the topic of elder abuse, except the push for growing awareness of the significance and breadth of the problem.

“Abuse, neglect and exploitation are how elder abuse is defined,” said Investigator

Nikki Henderson with the Kentucky Attorney General’s Office of Medicaid Fraud and Abuse Control. “When people hear of abuse, everybody just thinks physical. It is so much more than that. It can be mental abuse or psychological abuse.

“We think about physical because there is something to see,” she continued. “Usually when there is physical abuse, there is going to be psychological abuse, too. They are yelling, they are intimidating with that abuse.”

The Louisville Metro Police Department’s full-time Crimes Against Seniors Unit has seen its fair share of abuse, neglect and exploitation cases. The unit was started in 2000 by then Jefferson County Police Department Chief Bill Carcara, and merged with an existing part-time unit at the Louisville Police Department when the departments merged in 2003.

“We work felonies that happen to folks who are older than the age of 60,” said Sgt. Jerry Thornsberry, who is in charge of the Louisville Metro Crimes Against Seniors Unit.



**T**he Elder Justice Act, signed into law in 2010, is designed to provide federal resources to prevent; detect; treat; understand; intervene in; and, where appropriate, prosecute elder abuse, neglect and exploitation. For a bulleted summary of the act, please scan the QR code with your smart phone or go to <http://www.apa.org/about/gr/issues/aging/elder-justice-facts.aspx> ■

The unit also works cases for any vulnerable adult, such as individuals being victimized because of a mental or physical condition.

### **NO SAFETY AT HOME**

Many seniors suffer abuse at the hands of loved ones in their own home, Thornsberry said.

Thornsberry worked a case where a woman in her early 60s had a condition where her legs locked up. Her husband was her caretaker. One day the fire department was called to their house and had to forcibly enter into the home and into her bedroom. They found the completely bedridden woman locked in her bedroom — starving and laying in her own waste. Her husband hadn't taken care of her for a week.

"In this case it was criminal because he was the caretaker and he was able to do the job and he wasn't doing it," Thornsberry said. "We do run into situations where people are overwhelmed and don't know what they are doing, and we get them help. But when we get these neglect cases, they are disturbing, very disturbing."

"Whoever is entrusted to take care of that person, whether it is a person or institution, they have a right to make sure they maintain the health and welfare of them," Henderson said. "They need their medicines. They need to be cared for. They need treatment. If they neglect to do that, then the entity, the institution or individual, can be prosecuted for neglect."

Who knows what makes people neglect or abuse those they are supposed to love and for whose care they have been made responsible. But, Henderson pointed out the possible connection between prior abuse, and how it affects the caretaker's relationship with the victim.

"One day I'd like to do a study on caregivers — if you're the victim of abuse from your family — your mom or dad — then

somewhere down the line you become a caregiver, how effective can you be as the caregiver when you're caring for the abuser?" Henderson asked. "Because that happens. If they are entrusted as caregiver and they have been the abused, how do they care for them, or is this their time to get even?"

"I wonder if the caregivers that are abusing now, if you look back, were they abused?" she continued. "I wish there was a way to document that stuff. Maybe that's why there is a neglect or an abuse issue, because they were abused by them."

Louisville Detective John Fogel encountered a woman who was caring for her husband. He had bed sores so bad it looked like he had been attacked by a shark, Fogel said. The man had been lying in the same position so long, his skin had started to die and manifested itself into a giant sore that began eating its way out. When Fogel interviewed him, he was still alive, but in the small of his back he had a six-inch area >>



► Louisville Metro Police Detective John Fogel has served in the department's Crimes Against Seniors Unit for five years.

PHOTO BY JIM ROBERTSON



*One thing is for certain — elder abuse can happen to any older individual in any community. Elder abuse can occur anywhere — in the home, in nursing homes or other institutions.*

## Types of Elder Abuse\*

- **Physical abuse** – Use of force to threaten or physically injure a vulnerable elder
- **Emotional abuse** – Verbal attacks, threats, rejection, isolation or belittling acts that cause or could cause mental anguish, pain or distress to a senior
- **Sexual abuse** – Sexual contact that is forced, tricked, threatened or otherwise coerced upon a vulnerable elder, including anyone who is unable to grant consent
- **Exploitation** – Theft, fraud, misuse or neglect of authority, and use of undue influence as a lever to gain control over an older person's money or property
- **Neglect** – A caregiver's failure or refusal to provide for a vulnerable elder's safety, or physical or emotional needs
- **Abandonment** – Desertion of a frail or vulnerable elder by anyone with a duty of care
- **Self-neglect** – An inability to understand the consequences of one's own actions or inaction, which leads to, or may lead to, harm or endangerment ■

\* Taken from the National Center on Elder Abuse

>> where you could see through to his spinal column.

"He was demented, so we couldn't get a statement from him, and he couldn't articulate if he was aware of it," Fogel said.

When Fogel interviewed the wife, she told him about how abusive her husband had been to her.

"She said, 'I know I should have done this and that, but I was thinking about how abusive he was to me, so I let him suffer,'" John said, recalling the woman's story. "She didn't get locked up because the ... attorney thought that if we put her on the stand, any woman who has ever been abused before will sympathize with her. She could have been lying, but we won't know because I couldn't talk to [her husband]."

### HOME ALONE

Other cases of elder abuse don't come at the hands of anyone, but instead are sad reminders that often the elderly reach a point where they cannot and should not care for themselves. When an individual is found in deplorable conditions, but there is no caretaker or family member responsible for their care, it is called self-neglect. Self-neglect is not a criminal act, but when officers come across these types of cases, they can call Adult Protective Services, which can offer resources to the individual and get them the necessary help.

"We like to encourage families to be involved in their loved ones' lives," Thornsberry said. "Just like with kids — you have to stay involved in kids' lives — as their parents age, they need to be involved in their parents' lives. If they haven't seen them for two or three months, as they get older, the chances things might happen get greater. They need to check in on them — on a daily basis would be best."

The detectives of Louisville's Crimes Against Seniors Unit spend some of their time giving talks to various groups about what they do in the unit and what types of crimes are happening to seniors.

### WHEN THE HELP ISN'T HELPING

Often when family members know that their loved ones are no longer capable of caring for themselves, they will opt to place them in a full-time care or assisted-living facility. There is the natural assumption that their loved one will receive the necessary care in the facility that they cannot provide them because of a lack of time, knowledge or resources. And there are numerous facilities across the commonwealth in which senior citizens receive exceptional care and treatment from a compassionate and knowledgeable staff. Unfortunately, that is not always the case.

Between December 2006 and 2009, 107 serious citations were issued by the Office of the Inspector General to nursing homes in Kentucky. Those citations involved cases of sexual assault by staff members on residents, negligence and failure to act in a timely manner that resulted in severe injury or death and physical abuse of residents. However, these cases are often hard to work and hard to prosecute. Few nursing home employees are ever convicted of crimes when a resident is hurt or dies because of abuse or neglect and fewer still go to prison, a July 2010 Herald-Leader article states.

"You have to be able to build a case around a victim that may or may not be able to help you," Thornsberry said.

Research indicates that more than one in 10 elders may experience some type of abuse, but only one in five cases or fewer are reported. This means that very few

seniors who have been abused get the help they need, according to the National Center on Elder Abuse.

Police and coroners are rarely notified of nursing home deaths or serious injuries. If they are not notified, critical physical evidence cannot be collected in these cases to help in their prosecution. Additionally, though the serious nursing home violations are sent to the attorney general's office, their prosecutors do not prosecute the abuse cases, only those cases of provider fraud within Medicaid-funded facilities, Henderson said. The investigators at the attorney general's office work with local prosecutors on abuse cases, who may or may not want to take on the case.

The 107 serious citations issued in a three-year span involved 18 deaths and 30 hospitalizations. Only seven of the citations resulted in criminal charges.

One thing is for certain — elder abuse can happen to any older individual in any community. Elder abuse can occur anywhere — in the home, in nursing homes or other institutions. It affects seniors across all socio-economic groups, cultures and races. Though the awareness of the crime is growing, there is only one fulltime law enforcement unit devoted to the crime in the state. Law enforcement agencies across the commonwealth should make every effort to recognize the signs of elder abuse in their communities and know how to handle these cases.

"You have to determine when you go into a house, is there something underlying going on," Fogel said. Because a lot of times the perp lives in the home with them and they aren't going to talk to you in front of them.

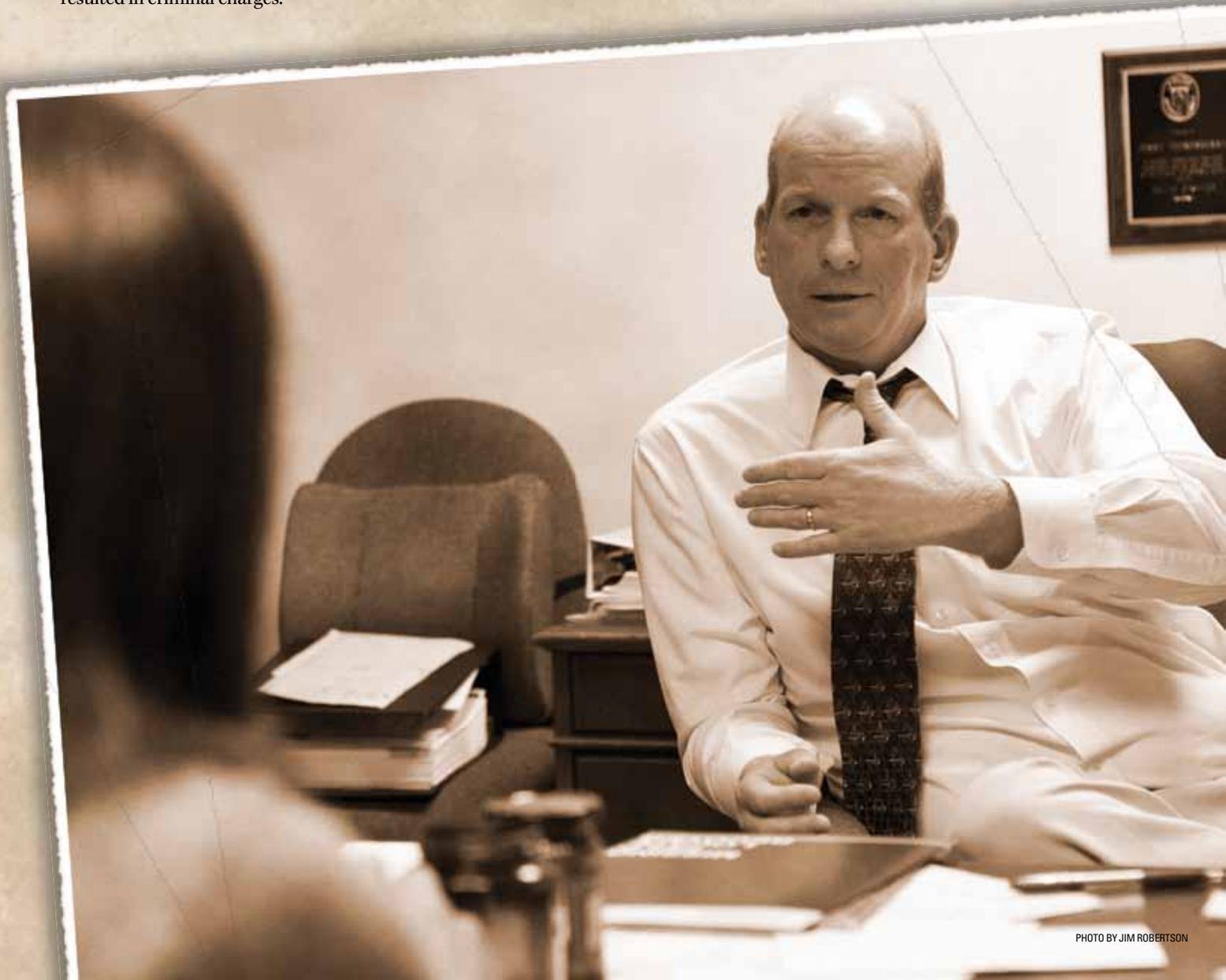
"And if [officers] are constantly making the same run to a person's house that [they] think is crazy, they need to try to figure out what's really going on," he added. "You have to realize these people may be afraid because they think you are going to take them out of their home and commit them. But instead of leaving that guy in that house, maybe we need to get him some help or point him in the right direction with an agency (that helps seniors.)" 🍷

---

Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.

---

▼ Louisville Metro Police Sgt. Jerry Thornsberry serves as the supervisor for the Crimes Against Seniors Unit, which works felony cases that happen to individuals age 60 and older, or who are being victimized because of a mental or physical condition.



# ELDER ABUSE: *the* INVESTIGATION PROCESS

TRAVIS MAYO, ASSISTANT ATTORNEY GENERAL | OFFICE OF  
MEDICAID FRAUD AND ABUSE CONTROL

Investigating and prosecuting criminal cases of elder abuse or neglect is far from a walk across the prairie. It can be more like climbing a summit along the Appalachian Mountains, only to look down and see the forest on the other side.

The trees: the unavoidable delay in beginning a criminal investigation, victims with mental or physical health issues, a criminal statute with vague terms, and a thin line between civil negligence and criminal conduct.

“Without question, elder abuse, both physical and exploitation, are among the most difficult cases we prosecute,” said Warren County Commonwealth’s Attorney Chris Cohron.

In 2010, the Attorney General’s Office of Medicaid Fraud and Abuse Control successfully prosecuted a criminal case of elder abuse. It stemmed from the investigation of allegations of abuse or neglect of a resident at Richmond Health and Rehabilitation Complex in Madison County. The family of the victim placed a hidden camera in the victim’s room for about three weeks, and the video captured the staff’s abuse and neglect.

In one recording, a staff member physically forced the victim’s legs apart to

change her adult briefs. In another, a staff member held the victim’s wrists, feet and ankles down in bed as the victim tried to free herself. Staff held the victim’s hands above her head, they roughly moved her from side to side in her bed, and they pulled her out of her bed by her wrists and neck.

The victim’s family also provided photographs revealing severe bruising to her upper left arm and shoulder, her left ear and her left shoulder blade area. While the family had voiced concern about the victim’s bruises, the facility did not properly assess or investigate the bruises of unknown origin. The director of nursing at the facility attributed the bruising to the resident’s combative behaviors. After an investigation by the MFCU, the office obtained convictions through guilty pleas by three defendants — one nurse and two certified nursing assistants. As part of their pleas, the defendants agreed to not work with vulnerable adults or children, not work in the health care industry, and not work for Medicare or Medicaid providers.

That case came to MFCU from the Department for Community Based Services and the Office of the Inspector General. Under KRS 209.030, any person with

**W**hile Kentucky's 13.3 percent falls close to the national percentage of 13 percent for population age 65 or older, several counties in the commonwealth significantly exceed the average. The top five counties are:

- Lyon County – 21 percent
- Hickman County – 20.8 percent
- Marshall County – 19.3 percent
- Cumberland County – 19.1 percent
- Trigg County – 19 percent ■

reasonable cause to suspect that an adult has suffered abuse, neglect or exploitation must report or cause reports to be made to the Cabinet for Health and Family Services. Such a report should then go to the DCBS, the agency responsible for protecting vulnerable adults. After screening a report, DCBS launches an investigation, usually conducted by social workers.

DCBS must notify MFCU of cases involving patient abuse, neglect or exploitation immediately upon obtaining information that indicates a violation of KRS 209.990(2) or another criminal offense. If a complaint appears criminal on its face, local DCBS workers contact their local police department, sheriff's office or Kentucky State Police post to collect evidence. DCBS also forwards the complaint to MFCU.

Early notification comes from a DCBS DPP-115 Confidential Abuse-Neglect, Dependency or Exploitation Reporting Form, which describes the allegation. DCBS substantiates or does not substantiate an allegation in a Notice of Findings. Upon approval by a supervisor, an even more detailed Continued Quality Assessment is distributed to appropriate agencies, including MFCU. In the CQA, the DCBS workers document all interviews they conducted, information they gathered or steps they took during the investigation. They also document the dates, times, locations, full names and relationships of all people interviewed in the CQA.

If a complaint is referred to the OIG, a team of nurses within that office examines the complaint and conducts an investigation. As a result of that review, OIG issues a Statement of Deficiencies detailing the problems with the facility through a survey. A Statement of Deficiencies requires that the facility respond with a Plan of Correction, which the OIG survey team must

approve. A Statement of Deficiencies can be based on any issue covered by regulation regarding a facility. If OIG determines that the situation poses an imminent danger to a resident and creates a substantial risk of death or serious mental or physical harm, it issues a Type A Citation under 900 KAR 2:040.

Upon receipt of a substantiated allegation, a Type A Citation or a direct complaint, MFCU opens a new complaint, reviews the information to determine if it needs more information. An investigator within MFCU is assigned to the case when the preliminary review leads to a full investigation. The nurse consultant within MFCU also reviews cases of abuse or neglect.

If after an investigation MFCU believes a case may be criminal, it submits the case to the local prosecutor, who has jurisdiction to prosecute such cases under KRS 209.180. In certain circumstances, such as when a conflict of interest or a lack of resources exists, the local prosecutor may request that MFCU prosecute under KRS 15.190, which occurred in the Richmond case.

Federal regulation makes MFCU responsible for reviewing complaints alleging abuse or neglect of patients in Medicaid-funded facilities. In carrying out its responsibility, MFCU is a health oversight agency under 45 CRR 164.501. Under 45 CFR 164.512(d), MFCU may obtain protected health information during civil or criminal investigations or actions, without the consent of the individual resident or patient. A facility may also disclose protected health information for a law enforcement purpose to a law enforcement official under circumstances under 45 CFR 164.512(f), which MFCU uses at times to obtain protected health information by administrative subpoena, or a civil or an authorized investigative demand letter.

Under Section 1128(b)(12) of the Social Security Act, a facility's refusal to grant immediate access to a review of documents like patient records may result in the facility's exclusion from participation in Medicare, Medicaid and other federally-funded health care programs. The exclusion is for the length of time that access is denied, plus up to 90 additional days.

Even with statutory and regulatory authority to investigate, proving a criminal case can be difficult. Federal law, including additions to the Social Security Act by the Patient Protection and Affordable Care Act of 2010, requires facilities to immediately report suspicion of abuse or neglect to law enforcement agencies. But Adult Protective Services is generally the first agency to arrive. A criminal investigation usually comes after an internal investigation and regulatory investigation. Valuable time passes. >>

*Even with statutory and regulatory authority to investigate, proving a criminal case can be difficult.*

“Any type of evidence, circumstantial or physical, is key to clearing hurdles of an abuse or neglect case.”

>> “You get better information at the beginning, the quicker you get to a scene, and sometimes even (better) evidence,” said MFCU Investigator Reed Wilbers, who worked for the Georgetown Police Department for 20 years before joining MFCU. “As time goes by, stories change, memories fail, evidence disappears.”

He has tried to build relationships with workers at the cabinet, so they may notify him if something egregious occurs in a facility. Cohron, who was recognized as the Prosecutor of the Year by the Kentucky Elder Abuse Council in 2008, said he is hopeful the notification process for law enforcement can be addressed legislatively.

Any delay adds more importance to gathering and preserving evidence. Paper evidence may contain records from the facility, including personnel records of alleged suspects showing the training they received, or timesheets revealing when employees worked. Facility records may contain care plans for the specific resident, which investigators can compare to other records to determine if staff followed the plan. They may also reveal complaints from family or others, to whom they were made and whether the facility followed up. They may also include photographs, or internal investigation materials, including witness statements. The evidence may also include medical records of the resident from the facility and other medical facilities, providing notice to staff or a facility of a resident's condition.

“Getting records and knowing what's required and knowing what someone did is as important as getting to the crime scene and maintaining physical evidence,” said MFCU Investigator Manager Dan Gibbons, a former Lexington Police detective. “And in a lot of cases it's more important, because that's all we've got.”

Video from the facility can be vital to an investigation. It may reveal abuse by staff where the physical indicators of abuse may not appear during an initial physical assessment of the resident. Video may combat explanations like there were no physical markings on the resident, or bruises were the result of defending against the resident's combative behaviors.

While the cabinet investigates complaints for regulatory violations, MFCU and other law enforcement agencies review complaints for criminal violations. These can include crimes ranging from homicide to tampering with physical evidence, but typically involve abuse or neglect under KRS Chapter 209. Under KRS 209.020(8), abuse is the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury. Neglect means a situation in which an adult is unable to perform or obtain for herself the goods or services necessary to maintain her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult, as defined under KRS 209.020(4).

The penalty section, KRS 209.990, makes knowing abuse or neglect a class C felony. Wanton abuse or neglect is a class D felony and reckless abuse or neglect is a class A misdemeanor. Anyone who knowingly or wantonly fails to report suspected abuse or neglect faces a class B misdemeanor. For information on relevant statutes, law enforcement agencies may also refer to the Elder Abuse Manual published by the Office of the Attorney General.

Unlike other criminal statutes, the elements of abuse or neglect are not laid out in a list in KRS Chapter 209. Determining the elements involves sifting through the

definitions and penalty sections. A perpetrator is guilty of knowing abuse when he is aware that his conduct is of the nature of inflicting injury, sexual abuse, unreasonable confinement, intimidation, or punishment on a resident, and his conduct results in physical pain or physical or mental injury. He is also guilty of knowing abuse if he is aware that the circumstance of such conduct exists. In 2009, the MFCU obtained a conviction for knowing abuse against a licensed practical nurse who ignored requests from other staff to check on a resident who was exhibiting signs of distress, then failed to attempt resuscitation when it appeared the resident had stopped breathing, even though the resident was a “full code” patient.

For wanton abuse, a prosecutor must prove that the perpetrator was aware of and consciously disregarded the risk that abuse or neglect would occur or that the circumstance of abuse or neglect existed. The prosecutor must also prove that the perpetrator's disregard of the risk was of



**REPORT ABUSE, NEGLECT AND EXPLOITATION**

There is no doubt that most caregivers in the Commonwealth of Kentucky provide capable and proper care to our most vulnerable citizens.

The few who do not, however, must be found, stopped and punished for their actions.

Referrals from concerned citizens are a critical source of information for the Medicaid Fraud and Abuse Control Division. All reported cases are reviewed and, where appropriate, investigations are conducted to determine whether violations have occurred.

Report all suspected abuse, neglect, or exploitation of patients in facilities receiving Medicaid funding to the Office of the Attorney General's Medicaid Fraud and Abuse Control Division toll-free at: 1-877-ABUSE TIP (1-877-228-7384) or visit us online at [www.ag.ky.gov/abuse](http://www.ag.ky.gov/abuse).

such nature and degree that her disregard of it constituted a gross deviation from the standard of conduct that a reasonable person would observe in the situation. An example would be a caretaker, who is aware from nursing notes and physician orders that a resident's dressings for bed sores must be changed to prevent infection, seeing the resident and choosing not to change the dressings.

Any type of evidence, circumstantial or physical, is key to clearing hurdles of an abuse or neglect case. Some injuries can be explained outside of the realm of criminal conduct. Bruises or marks may be the result of a staff member restraining a resident from running into danger, or the result of staff restraining residents from hurting themselves or others. A resident may have been a high risk for developing pressure ulcers because he was restricted to a wheelchair or bed for appropriate safety reasons. To overcome issues with evidence, law enforcement can take

photographs at the scene, use rulers to measure bed sores or pressure ulcers and take photographs of the measurement.

Cohron said he has seen a rise in expert witnesses testifying for the defense to explain facts and circumstances of cases. The prosecution can also use experts to strengthen a case. An expert can offer opinions on injuries, such as bruise patterns, or bed sores, or bone fractures, and causes of injuries. An expert can also identify lapses in care.

By keeping an eye on ways to overcome the myriad of obstacles, law enforcement can push toward successful prosecution of elder abuse or neglect cases, with the reason for justice on the other side of the forest.

"It's always about the victim," Wilbers said. ■

▼ The office of the attorney general publishes many pamphlets, booklets and other documents to raise awareness about elder abuse and how to report it.

## Resources

### OFFICE OF THE ATTORNEY GENERAL

#### Medicaid Fraud and Abuse Control Unit

(502) 696-5405

<http://ag.ky.gov/protecting.htm>

### CABINET FOR HEALTH AND FAMILY SERVICES

#### Adult Protection Services

(502) 564-7043

<http://chfs.ky.gov/dcbs/dpp/Adult+Safety+Branch.htm>

#### Elder Abuse Awareness

<http://chfs.ky.gov/dcbs/dpp/ea/>

### CABINET FOR HEALTH AND FAMILY SERVICES

#### Office of the Inspector General

(502) 564-2888

<http://chfs.ky.gov/os/oig/default.htm>

### LOUISVILLE METRO POLICE DEPARTMENT

#### Crimes Against Seniors Unit

(502) 574-2278

<http://www.louisvilleky.gov/MetroPolice/CrimesAgainstSeniors.htm>

### LEXINGTON DIVISION OF POLICE

#### Special Victims Section

(859) 258-3700

<http://www.lexingtonky.gov/index.aspx?page=106>

### NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT

#### Northern Kentucky Aging and Disability Resource Center

(859) 692-2480

(800) 766-2372

<http://www.nkadd.org/aging-a-disability-resource-center.html> ■

**KENTUCKY ATTORNEY GENERAL'S PATIENT ABUSE TIP LINE**

Report suspected abuse and neglect to:  
**1-877-ABUSE TIP**

1-877-228-7384  
 online at [www.ag.ky.gov/abuse](http://www.ag.ky.gov/abuse)

**OFFICE OF THE ATTORNEY GENERAL**  
**JACK CONWAY**  
 ATTORNEY GENERAL

**PATIENT ABUSE, NEGLECT AND EXPLOITATION**

IF YOU SUSPECT THAT AN ADULT HAS SUFFERED ABUSE, NEGLECT OR EXPLOITATION, PLEASE REPORT THAT INFORMATION TO AUTHORITIES AS SOON AS POSSIBLE.

**Kentucky**  
 UNBRIDLED SPIRIT

Medicaid Fraud & Abuse Control Division  
 Office of the Attorney General  
 1024 Capital Center Drive  
 Frankfort, KY 40601

# Define Use of Force: Determining When Robbery Can be Charged as First Degree

SHAWN HERRON | STAFF ATTORNEY, LEGAL TRAINING SECTION

**R**obbery is a simple crime, but it has become a hot topic in Kentucky courts of late. The core conduct in robbery occurs when a theft occurs (or is attempted), accompanied by a use of force. First degree robbery occurs when the defendant causes physical injury to anyone not a participant in the crime, is armed with a deadly weapon or uses or threatens to use a dangerous instrument. An issue that commonly arises in case law, however, is whether a particular item is, in fact, a deadly weapon, so that the case becomes a robbery in the first degree.

In the recent case of Wilburn v. Com., 312 S.W.3d 321 (Ky. 2010), the defendant (and his two accomplices) entered a Louisville liquor store at closing time. Wilburn pointed his firearm at one of the clerks and pulled the trigger, but nothing happened. The clerk grabbed a gun and fired at the robbers, who took flight and ran in different directions. Responding officers quickly apprehended one of the robbers, who identified Wilburn as the gunman. The morning after the robbery, an unloaded revolver was found near the store. The Court noted this perhaps explained why the gun did not fire during the robbery. Ultimately, ammunition was found in the getaway vehicle which suggested “that the Wilburn brothers may have simply forgotten to load the gun before the robbery attempt.”

Wilburn was convicted of robbery in the first degree and appealed.

Wilburn argued that first-degree robbery wasn't an appropriate charge because the prosecution failed to prove the revolver he carried was operable and as such, failed to prove he was armed with a deadly weapon. The Court noted that it was unclear from the court record why the gun was unloaded, “whether it was forgetfulness or a deliberate decision.” No tests were done to show if the weapon was operable if properly loaded. Under the state of the law at the time of the offense, pursuant to Merritt v. Com., 386 S.W.2d 727 (Ky. 1965) and Kennedy v. Com., 544 S.W.2d 219 (Ky. 1977) so long as an object is held in such a way that the victim would believe it was a deadly weapon, it would be considered



so for charging purposes. The Court used Wilburn for the opportunity to re-assess the holdings in those cases, noting that the Merritt decision “failed to comport with the plain language” of KRS 515.

In its criticism, the Court noted that Kentucky's definition of deadly weapon, in KRS 500.080(4)(b) requires that such weapons must be able to discharge a shot, and that an unloaded firearm is unable to do so. Merritt was decided prior to the revision of the penal code and terms >>



>> such as deadly weapon were not defined at that time. Kennedy, which was ruled upon after the penal code was revised, did not address the seeming contradiction between the pre- and post-penal code versions of robbery. The Court noted that “no amount of intent or intimidation by a robber can turn a toy gun, or a stick, or a finger in the pocket into a deadly weapon as it is currently defined. The subjective belief of the victim cannot do so, either. To the extent that it contradicts the current statute, the Court overruled the decisions in Merritt and Kennedy, concluding it was time to take a “fresh look” at the meaning of “armed with a deadly weapon.”

The Court agreed that there are two ways to look at the language in question — whether it was necessary to consider the operability of the specific weapon in question, or whether it was more appropriate to consider the class of weapons to which the item belongs in general. Because the statutory language was not clear, the Court looked next to the legislative intent. It found no difficulty in reaching the conclusion that the legislature intended the latter meaning and “must have intended to refer to pistols in general.” The Court found no reason to believe that the legislature would have intended that a savvy robber escape the consequences of first-degree robbery simply by leaving a weapon unloaded.

The Court reiterated, though, that a toy gun or water pistol, as a class, is not a deadly weapon, since as a class, such items could not cause death or serious physical injury. Further it noted that in most cases, the weapon is not immediately discovered so it would normally be impossible to prove or disprove that a particular weapon was operable at the time of the robbery. In such cases, the Court agreed that the victim’s representation of the weapon as real would be enough, absent proof to the contrary. The Court agreed that in the case at bar, the weapon was a deadly weapon under current law and Wilburn was properly convicted of robbery in the first degree.

In Gamble v. Com., 319 S.W.3d 375 (2010), decided just a few months after Wilburn, the Court considered whether an assertion

by Gamble during a bank robbery that he had a gun, although he did not show it to the teller, was sufficient to uphold his conviction for first-degree robbery. When Gamble was apprehended a short time after the crime, no gun was recovered. He denied that he made any specific threats or that he had a gun. Gamble was actually indicted not under the “armed with a deadly weapon” provision of first-degree robbery but that he “used or threatened to use a dangerous instrument.” The Court agreed that Gamble’s threats “amounted to threatening the immediate use of a gun.” (The issue of the credibility of the teller’s assertions, and Gamble’s denial, was a question for the jury, which clearly found that Gamble did, in fact, make the threats.) Gamble cited the case of Williams v. Com., 721 S.W.2d 710 (Ky.1986), in which the court differentiated between a suggestion and an explicitly stated thread that a robber had a gun, when he gestured at a bulge in a pocket. The Court upheld his conviction for robbery in the first degree.

Taken together, Wilburn and Gamble emphasize the

need for law enforcement officers to get a clear idea from robbery victims as to precisely what they saw and what was said during the course of the robbery. Wilburn teaches that if a firearm is real, first degree charges will be appropriate, even against assertions that the weapon was unloaded or even potentially inoperable. However, if what is brandished is clearly not a real weapon, but a toy or a fake, a first-degree charge is not supported. Gamble instructs, however, that if a firearm (or other deadly weapon) is not shown, but its use only explicitly threatened, a first-degree conviction may be successful under the dangerous instrument subsection of KRS 515.020. And, of course, if first-degree charges cannot be successfully prosecuted, second-degree robbery charges can be brought instead, and certainly they should be instructed to the jury. 🍌





# New Members Appointed to the Kentucky Law Enforcement Council

**KELLY FOREMAN** | PUBLIC INFORMATION OFFICER

**T**hree officers representing law enforcement training academies were appointed to serve in new roles on the Kentucky Law Enforcement Council.

In October 2011, Gov. Steve Beshear signed an executive order adding the agency heads of three training academies: the Kentucky Department of Criminal Justice Training, Lexington Division of Police and Louisville Metro Police Department. The Kentucky State Police is already represented.

“This move ensures that the entities charged with developing the standards for all law enforcement and peace officers in the commonwealth are working hand in hand with the agencies responsible for training those officers,” Beshear said of the move.

The KLEC governs training for all the state’s law enforcement. The council is charged with certifying and approving law enforcement training schools, training instructors and curriculum, as well as administering the Peace Officer Professional Standards certification process and monitoring the Kentucky Law Enforcement Foundation Program Fund.

The three agency heads each have designated individuals to represent them on the council. The new members who were named from the individual agencies are:

**DEPARTMENT OF CRIMINAL JUSTICE TRAINING OPERATIONS DIVISION DIRECTOR CHARLES MELVILLE**

Melville has served DOCJT since 2005 and was appointed director in 2008. By participating in the council’s discussions and decision-making processes, Melville said DOCJT can better serve those who depend on the agency.

“The ability to have a ‘seat at the table,’ to have a direct voice on the many issues the council tackles that affects the training we develop and present, is a benefit for each of the academies,” Melville said. “In my position as the director of training operations for DOCJT, I have regular contact with POST (Peace Officer Standards and Training) directors and training academies from across the country. Many states are dealing with similar issues as we are and have come up with unique solutions. I hope that those contacts and associations will be a benefit to KLEC as we move forward.”

**LEXINGTON DIVISION OF POLICE COMMANDER LAWRENCE WEATHERS**

A veteran of nearly 23 years, Weathers joined the training academy in March 2011 after serving as commander of the Bureau of Patrol. Weathers echoed Melville’s sentiments about the importance of each Kentucky academy’s voice being represented.

“What I hope is that it means a better relationship among all police departments across the state,” Weathers said of his appointment. “Hopefully, it will put everybody on the same page as far as training goes, and one particular organization won’t be receiving or have access to training that the other ones do not.”

**LOUISVILLE METRO POLICE DEPUTY CHIEF VINCE ROBISON**

A 24-year veteran representing the largest police agency in Kentucky, Robison stressed the importance of coordinating LMPD’s efforts with those of the rest of Kentucky law enforcement.

“From looking at what other states do, it is important to have a governing agency to look for best practices and ensure the quality of the education we give our officers,” he said. “We are trying to get input from all different sized agencies throughout the state. There is value in the input from the smallest to the medium to the largest.”

**OTHER MEMBERSHIP CHANGES**

In addition to the newly-appointed agency representatives, two members recently were appointed to fill positions on the council. Anderson County Sheriff Troy Young will serve as a representative of Kentucky’s sheriffs. Young was appointed by Gov. Beshear.

“Kentucky has gone above and beyond, and I’m just really impressed with how we have taken the lead over a lot of other states and set the standard for training in all law enforcement,” he said. “When we get a cadet out of the academy, he is well trained in law enforcement.”

Rowan County Sheriff Chief Deputy Joseph Cline also will join the council, representing and appointed by the Kentucky Association of Chiefs of Police. Cline has served the sheriff’s office for nearly four years, following his retirement as chief of the Morehead State University Police Department.

“It is important to have a representation of the chiefs, because KLEC is the group that helps set and shape the future of law enforcement,” Cline said. “I am proud to have been selected to be a part of the tradition of excellence that KLEC has shown throughout the years.”



Melville



Weathers



Robison

# FOR SEARCH TRUTH

## The Case for Polygraph Examination in Kentucky

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

“One of the first things examinees often say is, ‘These things aren’t allowed in court, are they?’

“There are settings in which polygraph is allowed,” said Pam Shaw, president of the American Polygraph Association. “But, when we look at our scientific stance, we know that we have to be able to show something with research. It has to be more than just because we say it works.”

The use and admissibility of polygraph examination is a topic that generates as much contention between legal professionals and polygraph supporters as the death penalty does between conservatives and liberals. That contention hinges on nearly 90 years of history, during which the topic has been debated, researched, tested and still found unresolved.

However, Kentucky cases as recent as December 2011 have reached the Kentucky Supreme Court challenging the issue again and again. And, polygraph experts say as the science and understanding of the methodology continues to evolve, there is hope for a more certain future of acceptance.

### POLYGRAPH IN KENTUCKY

There are a mere 44 polygraphers registered as members of the Kentucky Polygraph Association — the majority of the state’s licensed examiners, according to the association’s vice president, Mike Beck.

“There aren’t that many polygraph examiners out there, period,” Beck said. “It is a luxury if an agency has one or has access to one. They just aren’t around every corner.”

There are few laws that govern the state’s examiners, most of them having to

do with the licensing of the polygraphers to perform the tests, not with how the tests ultimately are to be used. There are three exceptions, relating specifically to the prohibition of requiring sexual abuse victims to undergo testing. (See p. 67).

“There is not legislation that prohibits [using a polygraph as evidence in court], but it’s kind of the unsaid court rule, that if you mention polygraph, now it’s thrown out,” said Shaw, who also serves as the Kentucky Law Enforcement Council’s Testing Services supervisor. “Your case is done, your witness is done. So, it just becomes one of those taboo words people say you just can’t use, even though they may not understand there are cases you can use it. It’s all about how you approach it with the judge and what’s agreed upon with the attorneys. A lot of attorneys will still use a polygraph to determine the

truthfulness of their client before they are willing to take their case.”

That taboo began in 1923 when the United States Supreme Court ruled in the case of Frye v. United States that the polygraph test of that time could not be used as evidence in court.

“Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define,” the opinion states. “Somewhere in this twilight zone the evidential force of the principle must be recognized, and while courts will go a long way in admitting expert testimony deduced from a well-recognized scientific principle or discovery, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs. We think the systolic blood pressure deception test has not yet gained such standing and scientific recognition among physiological and psychological authorities as would justify the courts in admitting expert testimony deduced from the discovery, development, and experiments thus far made.”

At that point, a precedent was set, Shaw said. Most courts would not allow the exams, but the science and study of polygraphing continued to develop and improve. Polygraphs continued to be used in the investigation of crimes, as well as for employment screening and other areas in which deception needed detecting. But, the Supreme Court maintained its precedent, with little sway from its course.

For example, in 1991, Barrington Morton appealed his murder conviction in part because evidence that he passed a polygraph exam was ruled inadmissible during his trial. After Morton was indicted for his crimes, he, his attorney and the then-serving assistant commonwealth’s attorney came to an agreement that the polygraph would be allowed as evidence. However, when the trial date arrived, a new commonwealth’s attorney was prosecuting the case and moved to exclude the exam — a motion which was granted.

In its opinion, the Supreme Court expressed its disapproval of the circumstances under which the commonwealth recanted on its agreement. However, the Court maintained its position that polygraph exams are “unreliable and therefore inadmissible.”

“While this Court would not countenance dishonesty or the taking of unfair advantage of the commonwealth, neither will we perpetuate a practice which subverts rather than assists the truth-finding process,” the Court wrote in its opinion. “We hold the polygraph evidence offered here inadmissible, not because of the commonwealth’s change of heart, but because appellant (Morton) was never entitled to have the evidence admitted.”

#### A CHANGE IN COURSE?

Just two years after the Morton case was decided, a new case in the United States Supreme Court replaced the Frye standard from 1923. The case of Daubert v. Merrell Dow Pharmaceuticals Inc., lifted the restrictions on scientific evidence Frye had set in place so many years before.

Instead, according to the Cornell University Law definitions, it created a standard in which a trial judge can “make a preliminary assessment of whether an expert’s scientific testimony is based on reasoning or methodology that is scientifically valid and can properly be applied to the facts at issue. Under this standard, the factors that may be considered in determining whether the methodology is valid are:

- whether the theory or technique in question can be and has been tested;
- whether it has been subjected to peer review and publication;
- its known or potential error rate;
- the existence and maintenance of standards controlling its operation; and
- whether it has attracted widespread acceptance within a relevant scientific community.”

“The Daubert Standard, that was a big turnaround,” Shaw said. “It started to put recognition [of the polygraph] back in the legal community. And, what we’re finding from the polygraph profession side, is for us to increase our utility in actual cases in law enforcement settings, we have to educate the users and let them know that what happened 90 years ago shouldn’t make a decision about what we can do today and our scientific backing.”

On its website, the American Polygraph Association addresses the admissibility of polygraph in court and similarly >>

## What is a Polygraph?

The term “polygraph” literally means “many writings.” The name refers to the manner in which selected physiological activities are simultaneously recorded. Polygraph examiners may use conventional instruments, sometimes referred to as analog instruments, or computerized polygraph instruments. It is important to understand what a polygraph examination entails. A polygraph instrument will collect physiological data from at least three systems in the human body. Convulsed rubber tubes that are placed over the examinee’s chest and abdominal area will record respiratory activity.

Two small metal plates, attached to the fingers, will record sweat gland activity, and a blood pressure cuff, or similar device will record cardiovascular activity. A typical polygraph examination will include a period referred to as a pre-test, a chart collection phase and a test data analysis phase. In the pre-test, the polygraph examiner will complete required paperwork and talk with the examinee about the test. During this period, the examiner will discuss the questions to be asked and familiarize the examinee with the testing procedure.

During the chart collection phase, the examiner will administer and collect a number of polygraph charts. Following this, the examiner will analyze the charts and render an opinion as to the truthfulness of the person taking the test. The examiner, when appropriate, will offer the examinee an opportunity to explain physiological responses in relation to one or more questions asked during the test. It is important to note that a polygraph does not include the analysis of physiology associated with the voice. Instruments that claim to record voice stress are not polygraphs and have not been shown to have scientific support.

— Excerpt from the American Polygraph Association’s website, frequently asked questions. For more details, visit <http://www.polygraph.org/section/resources/frequently-asked-questions>. ■

>> recognizes the shift Daubert brought about for the polygraph community.

“Daubert did not involve lie detection, per se, as an issue, as Frye did, but it had a profound effect on admissibility of polygraph results as evidence, when proffered by the defendants under the principles embodied in the Federal Rules of Evidence expressed in Daubert,” the website states. “...Primarily because of Daubert, as well as the impact the other cited cases have had, polygraph examination admissibility is changing in many states. Many appeals, based on the exclusion of evidence at trial are now under review by appellate courts.”

The good news hasn't been such an easy sell for Kentucky, yet.

In August 2009, Hope White was indicted in Wayne County for the murder of her friend, Julie Burchett, whom she believed was having an affair with her boyfriend, Bobby Buster, according to court records. White's case went to trial, where she was found guilty of the crime and sentenced to 30 years imprisonment.

White appealed, claiming — like Morton — that she had passed a polygraph exam during the course of the investigation and that evidence was not admitted at trial, said Wayne County Commonwealth's Attorney Matthew Leveridge.

“The trial court relied on 35 years of Supreme Court precedent saying you cannot introduce a polygraph,” Leveridge said. “So, her polygraph examination and any

mention of it was excluded — correctly excluded — the Supreme Court told us, so that was not part of the trial. Of course, it went up on appeal, and the Supreme Court confirmed the trial court's ruling on the polygraph. They just basically said that the polygraph is unreliable and it is not admissible, on either side, period.”

In fact, the Court referred to Morton in its decision, noting that the case established clear precedent regarding a polygraph's admissibility, stressed the importance of that precedent as a matter of law and that White's case provided “no sound reason for ignoring our precedent.”

Leveridge noted, however, that there is one Kentucky case where the Supreme Court ruled that the circumstances of the

“*Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define.*”

## Recent Kentucky Laws Address Polygraphs in Sex Crimes

**95.021** Police officer prohibited from requesting or requiring victim of alleged sexual offense to submit to polygraph or other examination — Other prohibitions.  
No **police officer** shall:

(1) As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or

(2) Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.

**16.062** Prohibition against requesting or requiring victim of alleged sexual offense to submit to polygraph or other examination — Other prohibitions.  
No officer of the **Kentucky State Police** shall:

(1) As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or

(2) Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.

**69.008** Commonwealth's and county attorneys prohibited from requesting or requiring victim of alleged sexual offense to submit to polygraph or other examination — Other prohibitions.

No **Commonwealth's or county attorney** shall:  
(1) As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or

(2) Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.

case made the polygraph a necessary part of the defendant's evidence.

A Jefferson County jury convicted John Elvis Rogers of murder, first-degree robbery and first-degree burglary in 2002, but Rogers appealed his conviction in part based on a polygraph he was given during the investigation. Rogers was found to be mentally retarded, and claimed that he confessed to the crimes only after being told he failed the polygraph exam.

"Appellant (Rogers) contends that when the investigating officers informed him that he had failed the polygraph examination and that he had lied to [the polygraph examiner] in the process, he — in large part because of his limited intellectual capabilities — confessed to a crime he did not commit. By preventing appellant from making any reference to the polygraph examination, the trial court pulled the proverbial rug out from under appellant's

defense and left appellant unable to present the jury with the factual circumstances that he alleged caused him to confess falsely."

Rogers' conviction was reversed and his case was remanded back to the Jefferson County Circuit Court.

"We think that, number one, failing the polygraph means you're guilty, and the corollary is that passing the polygraph must mean you're innocent," said Shawn Herron, Department of Criminal Justice Training staff attorney. "That is not necessarily the case. It is really more of an indicator. Something to follow up on. The Court is afraid that if you put it in front of a jury, the jury will take it as a technology and take it too definitively. That's the basic reason why you have to be careful with it. Most examiners will tell you, 'I'm good, but I'm not perfect.' And realistically, that's the only standard you need for Daubert."

In response to the unfavorable results from Kentucky's appellate courts, American Polygraph Association Legal Counsel Gordon Vaughan said the problem lies more in understanding the science than in proving the polygraph's accuracy.

"I think a major problem — though perhaps not determinative in most cases — is that in the cases currently going to the appeals courts, an inadequate record is being made about polygraph and the current science," he said. "The court is given no reason to change from the prior opinions."

Vaughan elaborated, saying that in many cases, attorneys do not call scientists who are sufficiently versed in the current polygraph research as expert witnesses to testify about the validity of the testing or submit peer review that supports it.

"A lot of lawyers, particularly the ones who are usually interested in putting this on, are usually public defenders, who >>

*Polygraph is a search for truth. We lawyers and the courts, we think that [the courtroom] is our own little kingdom that we have created for ourselves. That the art of cross examination is what gets to the truth. So, we are unwilling to concede that science might provide another answer.*

>> have limited funds to go hire the expensive experts, and who have limited time to go figure out what they're supposed to do," Vaughan said. "So, they really don't make an adequate record to overcome the really difficult predisposition that a lot of courts have negative to polygraph. There are examples of cases out there in which people have taken the time and made the effort to produce that kind of record, and those are the cases that you are more successful. Now, more often than not, that doesn't even get it done. Because, unless there is a stipulation in general, polygraph evidence is not typically admitted. While there are some inroads being made along the edges, for example, we are seeing more admissibility in the context of post-conviction use."

#### 'SOMETHING TO FOLLOW UP ON'

"As an investigative tool, it's great, because it gets people talking," Leveridge said of the polygraph.

There are two categories of tests, Shaw said, recognition tests and deception tests. A deception test is one in which the examiner is looking for an area where a person may be withholding information. A recognition test is where the examiner is looking at whether or not someone has knowledge of a situation. Both types of tests can be useful to law enforcement as they are conducting their investigations.

In the past 10 years, the concealed information test — a recognition test — has become more popular with investigators who are becoming more familiar with its results, Beck said. The CIT also is widely known as the guilty knowledge test.

"CIT is one of the most well researched, most valid techniques we have," Shaw agreed. "It performs well, it has psychological theory behind it that seems to be well understood by a lot of people — laymen and professionals — and it has a good foundation."

Shaw used an example of a home burglary to explain how CIT could be a helpful tool for an investigator. An officer may have a suspect he or she believed was the burglar, and, during the interrogation, suggested that person committed the crime and the suspect denies all knowledge of the case facts.

"You could surmise that, if they are innocent, they would not be able to identify the house, they don't know how the house was broken into or any of the items missing from the house," Shaw said. "So, at that point, that's what you would be testing for. Their physiological responses demonstrate a greater response to something the brain has a memory of. If you were the innocent person and you really didn't have any idea, they would all seem plausible."

One of the difficulties of using the CIT test, though, is that using a polygraph

exam tends to occur on the back end of an investigation, Shaw said.

"The investigators do all the work, they go through all the investigation, they talk to the media, and by the time it gets to the point of doing the polygraph, all the case facts have been leaked," she said. "At that point, you don't have a lot to work with for the CIT, because everybody is already tainted."

"Most agencies who are successful in using the CIT, it's because they have a good relationship in working with the polygraph investigators, and a lot of times those examiners will even be called out to the scene to witness what's there," Shaw continued. "There's been an education with investigators on the front end [not to release details]."

But, how do you use a polygraph as an investigative tool and not admit it as evidence or write it up in case notes?

"What will happen most of the time is, instead of bringing up the polygraph test, they will talk about the interview, talk about the knowledge that the examinee had or what the examinee admitted to," Shaw said. "So, it's more about the admissions as opposed to the actual test process."

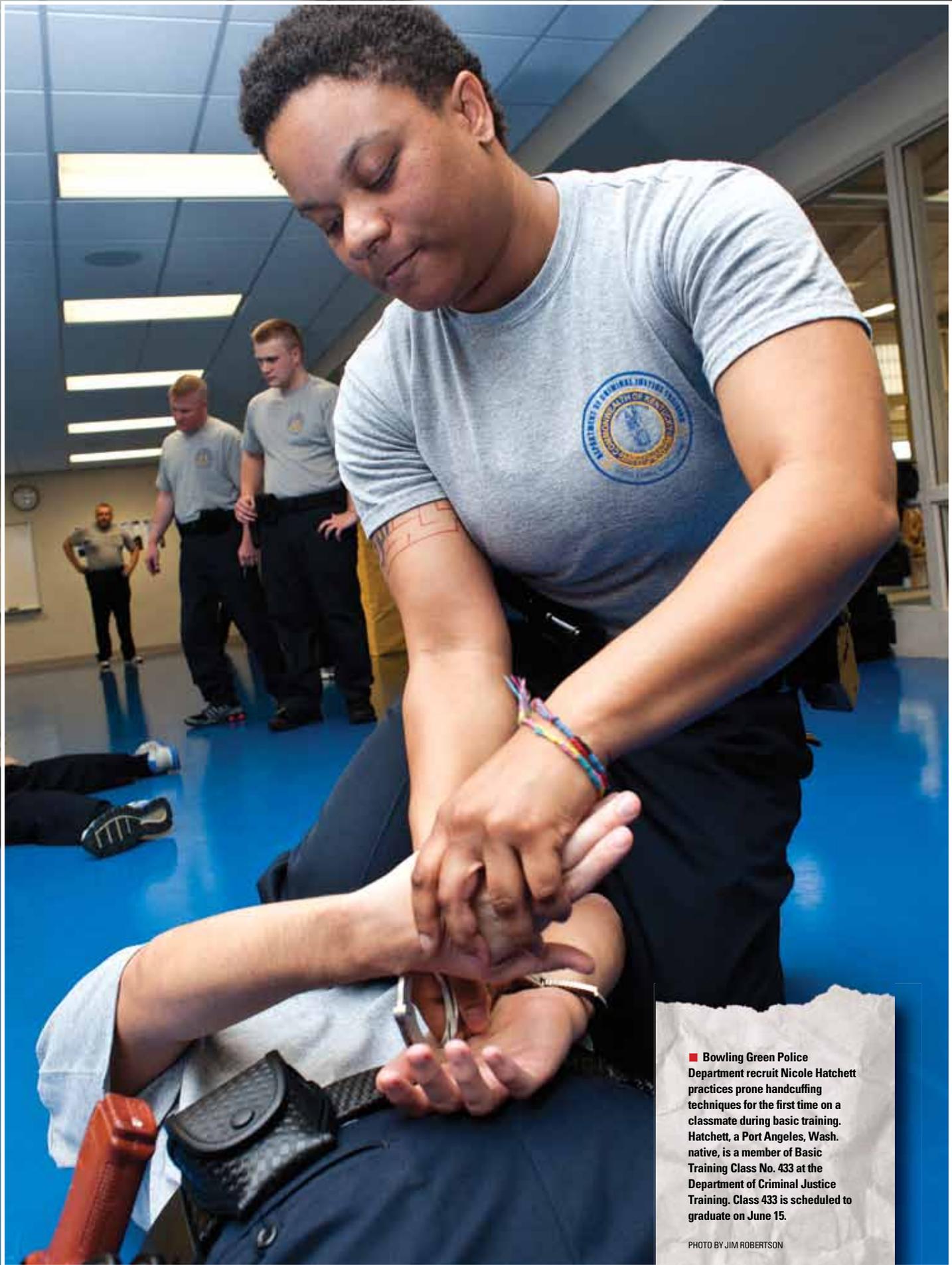
Someday, however, polygraph proponents hope that won't be the case — that the polygraph will be more widely accepted as reliable scientific evidence, and will be admitted in court without sly stipulations or fearful omission.

"Polygraph is a search for truth," Vaughan said. "We lawyers and the courts, we think that [the courtroom] is our own little kingdom that we have created for ourselves. That the art of cross examination is what gets to the truth. So, we are unwilling to concede that science might provide another answer. I think there is an inherent reluctance to embrace polygraph. That's one of the issues, there are a lot of other issues with just the unfortunate situation that was considered so early on with Frye case, when there really wasn't evidence to support it. That sort of created the rut in the road that is hard to pull the tire out of."

---

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

---



■ Bowling Green Police Department recruit Nicole Hatchett practices prone handcuffing techniques for the first time on a classmate during basic training. Hatchett, a Port Angeles, Wash. native, is a member of Basic Training Class No. 433 at the Department of Criminal Justice Training. Class 433 is scheduled to graduate on June 15.

PHOTO BY JIM ROBERTSON

We the

insure domestic Tranquillity  
and our Posterity, do ordain

Article

Section. 1. All legislative Powers herein granted shall be vested  
in Representatives.

Section. 2. The House of Representatives shall be composed of  
in each State shall have. Qualifications requisite for Electors of the most numerous

No Person shall be a Representative who shall not have attained  
and who shall not, when elected, be an Inhabitant of that State in which he

Representatives and direct Taxes shall be apportioned among the several  
Numbers, which shall be determined by adding to the whole Number of free  
not taxed, three fifths of all other Persons. The actual Enumeration shall be taken  
and within every subsequent Term of ten Years, in such Manner as shall be  
thirty Thousand

# QUALIFIED IMMUNITY AGAIN DENIED IN RECENT KENTUCKY CASE

THOMAS W. FITZGERALD | STAFF ATTORNEY, LEGAL TRAINING SECTION

In yet another search and seizure case, the Sixth Circuit Court of Appeals denied an officer qualified immunity for a warrantless entry into a residence. This has been a consistent recent trend from the Sixth Circuit Court of Appeals. Officers need to be mindful that the denial of qualified immunity does not mean that they automatically lose their case. The denial of qualified immunity means that the litigation will continue, along with both the personal and financial expenses, for a decision ultimately on the merit of the case, as determined by the jury or judge.

On May 30, 2005, an individual reported to the McCracken County Sheriff's Office that Plaintiff Phillip Murray Modrell's son, Richard Modrell, was delivering methamphetamine to local convenience stores while on duty as a Domino's Pizza delivery person. Richard Modrell resided at 256 Nickell Heights.

On June 7, 2005, Defendant Jon Hayden, a detective for the McCracken County Sheriff's Office, received a call from Bridgette Maxie, an employee of the Kentucky Department of Families and Children, concerning another complaint of illegal drug activity at 256 Nickell Heights. Maxie said that a caller reported that adults at the

residence used methamphetamine and crack cocaine, and that Michelle Lindsey and her 15-year-old daughter used marijuana together in the home. The caller also indicated that there were loaded guns in the house and that adults answered the door with guns in their hands. Pursuant to Maxie's request, Defendant Jesse Riddle, a deputy for the McCracken County Sheriff's Office, accompanied Maxie to the residence on June 8, 2005, so that her office could investigate the complaint.

Upon arrival at 256 Nickell Heights, Riddle knocked on the door and made contact with Phillip Murray Modrell. Riddle and Maxie informed Modrell that they were looking for Lindsey and her daughter. Modrell advised them that Lindsey and her daughter lived downstairs and that Riddle and Maxie would need to go around downstairs.

Riddle returned to his car and drove to the back of the house. After being joined by another deputy, Riddle knocked on the downstairs door at the rear of the residence. Richard Modrell answered the door and Riddle confirmed with him that Lindsey and her daughter were in the basement. Richard Modrell gave Riddle consent to search the basement residence. The search revealed methamphetamine >>

“Qualified immunity is a question of law, but ‘where the legal question of qualified immunity turns upon which version of the facts one accepts, the jury, not the judge, must determine liability.’”

>> foils. During the search, Richard Modrell informed officers that he had a firearm in the basement and that his father had firearms in the upstairs portion of the residence.

While in the basement residence Riddle observed that it had a bathroom with bathing facilities and a kitchen. Riddle also observed a carpeted stairwell with a door leading to the upstairs portion of the house. The door had locks on both sides. Riddle did not check the door to determine if it was locked.

After finding the methamphetamine foils, Riddle placed Richard Modrell under arrest and handcuffed him. Richard Modrell and Lindsey were both detained by a deputy in the basement living room. Riddle then proceeded back around the residence and onto the porch. Riddle informed Phillip Modrell that drugs had been discovered in the basement and that everyone was being detained while the police secured the entire residence for a search warrant. Phillip Modrell objected to Riddle’s entry into his upstairs residence without a search warrant. Phillip Modrell states that Riddle told him that he was coming in anyway while simultaneously making a gesture to reach for his side. Phillip Modrell interpreted this gesture as Riddle reaching for his gun. Defendants state that Riddle requested that all occupants of the residence come outside onto the carport with him, and that Phillip Modrell indicated that his mother-in-law was not physically capable of doing so and that Phillip Modrell’s grandchild was asleep upstairs.

Defendants said during this conversation, Riddle observed Lindsey’s daughter

enter the upstairs portion of the home through the door at the top of the carpeted stairwell that connected the two residences. Defendants said Riddle then entered the home and remained there until the search warrant arrived. Sometime after Riddle had entered and secured the upstairs area, Hayden arrived and also entered the upstairs residence.

Proceeding pro se, Phillip Murray Modrell sued Riddle, Hayden, and Deputy Sheriff Matt Carter under 42 U.S.C. § 1983 for violating his rights under the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution and committing various state torts. The district court granted summary judgment to Hayden and Carter on Modrell’s constitutional claims against them, but held that Riddle was not entitled to qualified immunity from Modrell’s Fourth Amendment claims of warrantless entry and his state-law claims of trespass and false-imprisonment.

In beginning its analysis, the court stated: “Qualified immunity is a question of law, but ‘where the legal question of qualified immunity turns upon which version of the facts one accepts, the jury, not the judge, must determine liability.’” “A defendant (here, Deputy Riddle) seeking to take an interlocutory appeal from the denial of qualified immunity ‘should be prepared to concede the best view of the facts to the plaintiff and discuss only the legal issues raised by the case.’ Accordingly, this Court construes all factual disputes in Modrell’s favor.

To determine if qualified immunity protects a government official’s actions, the U.S.

## Amendment IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Supreme Court prescribes a two-step inquiry, which considers: (1) whether the defendant violated a constitutional right; and (2) whether that right was clearly established. For qualified immunity to be granted, the officer must meet both tests.

In addressing whether Riddle violated Modrell's constitutional rights the court started by providing that the Fourth Amendment guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." A central tenet of Fourth Amendment law is that warrantless government intrusions into a private dwelling are presumptively unreasonable, subject only to certain carefully delineated exceptions. One such exception exists when "the exigencies of the situation make the needs of law enforcement so compelling that the warrantless search is objectively reasonable." The Supreme Court has identified a limited number of cases where warrantless searches or seizures may be justified by exigent circumstances (such as assistance to persons seriously injured or threatened with serious injury; fire on premises; protecting officer safety, imminent destruction of vital evidence and imminent risk of flight). Deputy Riddle contended that exigent circumstances justified his entry into Modrell's residence in order to ensure officer safety and prevent the destruction of evidence. However, the court notes "it is Riddle's burden to prove that such exigent circumstances were present."

Deputy Riddle argued that securing the entire residence at 256 Nickell Heights was

necessary to prevent anyone from shooting at the officers from inside the house. The Supreme Court has long recognized that "the need to protect or preserve life or avoid serious injury" is an exigent circumstance justifying searches or seizures that would otherwise be unconstitutional without a warrant.

In an appeal, the district court concluded that exigent circumstances justified the warrantless entry. However, the Sixth Circuit Court stated: When Riddle made his warrantless entry, Richard Modrell and his girlfriend were detained in the basement under police supervision and Richard Modrell's firearm was secured. Furthermore, although the informant's description of 256 Nickell Heights and its occupants were legitimate grounds for concern, Riddle did not see anyone with a weapon at any time. In fact, while Riddle's interactions with the Modrells may not have been outright friendly, they remained courteous throughout the incident. Without a doubt, Modrell was not happy to have the police in his house: he repeatedly denied Riddle permission to enter, questioned the legality of Riddle's actions and tried to reach his attorney by telephone. However, Modrell made no threats, direct or indirect, against Riddle or his fellow officers. Riddle has failed to show that there was an objectively reasonable risk that justified seizing the entire residence.

Deputy Riddle also argued that entering 256 Nickell Heights without a warrant was necessary to prevent relevant evidence from being destroyed. Exigent circumstances may arise when the inevitable delay involved in >>

>> procuring a search warrant could result in the loss or destruction of contraband or evidence pertaining to a crime.

The Sixth Circuit, in deciding the case of United States v. Sangineto-Miranda, 859 F.2d 1501, (6th Cir.1988), explained that a warrantless entry based on imminent destruction of evidence is justified if officers can show: (1) probable cause to enter the residence; and (2) “an objectively reasonable basis for concluding that the loss or destruction of evidence is imminent.” The second prong is established where officers have reasonable grounds to believe that third parties inside the dwelling “may soon become aware the police are on their trail, so that the destruction of evidence would be in order.” Since residential searches and seizures without a warrant are presumptively unreasonable, “the police bear a ‘heavy burden when attempting to demonstrate an urgent need’ that might justify a warrantless entry.”

However, Deputy Riddle urged the Sixth Circuit Court to follow the U.S. Supreme Court’s analysis in Illinois v. McArthur, 121 S. Ct. 946, (2001). In McArthur, the Supreme Court explained that because the defendant officers had raised a plausible claim of exigent circumstances, “rather than employing a per se rule of unreasonableness, we balance the privacy-related and law enforcement-related concerns to determine if the intrusion was reasonable.” To determine whether the plaintiff’s privacy interests outweighed law-enforcement concerns, the Court considered: (1) whether there was “probable cause to believe that the defendant’s residence contained evidence” of a crime or contraband; (2) whether “the police had good reason to fear that, unless restrained,” the defendant would destroy the evidence before they could return with a warrant; (3) whether officers “made reasonable efforts to reconcile their law enforcement needs with the demands of personal privacy”; and (4) whether the restraint in question lasted “no longer than reasonably necessary for the police, acting with diligence, to obtain the warrant.”

Deputy Riddle argued that McArthur provides the proper standard for determining the reasonableness of warrantless residential seizures. However, the Court provided that “the four-pronged McArthur test did not substantially alter the

law of this Circuit, as set forth in Sangineto-Miranda, instead, it simply clarified the Sangineto-Miranda analysis. The Sixth Circuit noted that “In any case, the result is the same under either test”; and the Court held that: (1) Riddle lacked probable cause to enter the top portion of 256 Nickell Heights; (2) there is a genuine issue of material fact as to whether Riddle reasonably believed that Michelle Lindsey’s daughter posed an imminent threat to the evidence; (3) Riddle’s seizure of the entire house privileged law-enforcement concerns at the expense of the residents’ privacy interests; and (4) the length of the seizure was not unreasonable. Therefore, whether Riddle violated Modrell’s Fourth Amendment rights depends on the whereabouts of Michelle Lindsey’s daughter, and whether she was under official supervision, when Riddle made his warrantless entry. This is a question for a jury to resolve.

In addressing whether that Constitutional right was clearly established, the second step in the two-step inquiry, the Court notes that “an officer is entitled to qualified immunity if the law in existence at the time of the incident did not clearly establish that his conduct would violate the Constitution.” The relevant inquiry is whether ‘it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted.’

Deputy Riddle points out that the district court upheld the search of 256 Nickell Heights that took place after the officers obtained their search warrant. Riddle argues that, if it was reasonable for him to believe that the house was a single-family residence when procuring the warrant and conducting the ensuing search, then it was no less reasonable for him to believe that he could enter the upper level without a warrant based on exigent circumstances. In ruling, the Sixth Circuit Court affirmed the district court, and held: “On the fundamental principle that, absent exigent circumstances, Riddle’s actions violated Modrell’s clearly established Fourth Amendment rights, the district court never wavered.”

**NOTE:**

This case involved an interlocutory appeal dealing solely with Deputy Riddle’s warrantless entry, and the Sixth Circuit Court of Appeals expressed no opinion as to the legality of the subsequent search undertaken by the warrant.





Article I  
ensure domestic Tranquillity, provide for the common defence and our Posterity, All powers are hereby granted to the United States in Congress assembled, Article I



## Sheriff Gus H. Skinner, Jr. McCreary County Sheriff

Gus Skinner began his law enforcement career as a special deputy marshal for the Municipal Court in Columbus, Ga. and also joined the Columbus Police Department in 1973. In 1975, Skinner joined the Daugherty County Police Department in Albany, Ga. and joined the Fort Benning Fire Department in 1981. He transferred to the U.S. Forest Service in Kentucky as a federal agent in 1992 and graduated from the Federal Law Enforcement Training Center. During this time, he was heavily involved in drug enforcement and also was assigned to Appalachia HIDTA. He retired from the U.S. Forest Service in 2004. In 2006, he became sheriff of McCreary County as a write-in. No sheriff in the history of the state had ever won the office as a write-in candidate. In 2010 he was re-elected as sheriff. Skinner has one daughter, Heather.

### WHAT DO YOU SEE AS YOUR MAJOR ACCOMPLISHMENTS AS SHERIFF?

My first and foremost accomplishment was to bring trust and professionalism back into the McCreary County Sheriff's Office. During my terms as sheriff I have applied for and received various grants. With these grants we have purchased new fleet vehicles, which were badly needed. Each deputy and two court security officers have Tasers. The deputies have MDTs in their vehicles. I was able to hire a law enforcement intelligence analyst who is invaluable to this office and surrounding agencies.

### HOW HAS YOUR EXTENSIVE BACKGROUND AS A FEDERAL AGENT HELPED YOU IN YOUR ROLE AS SHERIFF OF MCCREARY COUNTY?

While working as a federal agent in this area, I worked with various local, state and federal

My first and foremost accomplishment was to bring trust and professionalism back into the McCreary County Sheriff's Office.

agencies. The respect and trust I developed over the years has been invaluable. As sheriff, if I need any assistance, I am able to pull resources from these different agencies in combating crime in McCreary County.

### WHAT IS YOUR MOST FAVORABLE RESOURCE IN LAW ENFORCEMENT?

Being a small, rural county with no incorporated cities and the Daniel Boone National Forest making up 75 percent of the county, funds and manpower are limited. My office has four full-time deputies and myself for 24/7 coverage. My deputies go above and beyond their obligations because of their love for their county. We depend heavily on Kentucky State Police for their extra support. All I have to do is call KSP and they are always there for support. We do not know what we would do without the dedicated troopers in our county.

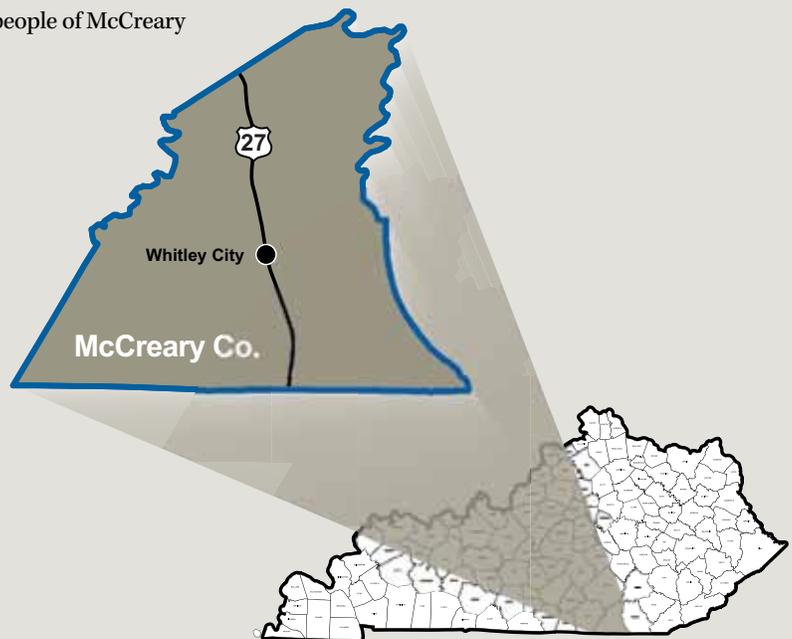
### PLEASE SHARE THE OVERALL THEME OF YOUR OFFICE AND WHY?

The theme of our office is to serve and protect the people of McCreary

County while placing our trust in God. The people of McCreary County deserve to feel safe in their homes. Drugs are a major problem in the county so we partner with different drug task forces to slow the drug trafficking in the county.

### WHAT IS THE DOCUMENTARY THAT IS BEING DONE ABOUT THE MCCREARY COUNTY SHERIFF'S OFFICE?

A film crew out of Los Angeles, Calif. wanted to do a documentary about law enforcement in Appalachia. After doing some research they found McCreary County, Ky. I was contacted and agreed to help with their project. They spent a couple of weeks filming my deputies and me. They are hoping to have it produced by either National Geographic or the Discovery Channel. If this happens, it will be a great boost for the county. 🇺🇸





## Capt. George Atwood

### Kentucky Horse Park Mounted Police

George Atwood began his law enforcement career in 1974 as a patrolman with the Woodford County Police Department. He graduated from the Department of Criminal Justice Basic Training Class No. 51. In 1979, Atwood left Kentucky to join the Routt County Sheriff's Office in Colorado, serving as deputy, patrol supervisor, and detective. He returned to Kentucky and the Woodford County police in 1985 until he joined the staff of the DOCJT in 1990. In 1995, Atwood became chief deputy at the Woodford County Detention Center, retiring in 2000. He accepted a position with the Kentucky Horse Park Mounted Police Department in 2002, and was promoted to captain/department head.

#### WHAT ASPECT OF YOUR LIFE HELPED TO SHAPE YOUR CAREER AS A LAW ENFORCEMENT EXECUTIVE?

It would be the training and leadership roles I have had in my career, the experience gained by attending instructor/training classes at both the FBI academy and Federal Law Enforcement Training Center, being an instructor at DOCJT, and the exposure to different philosophies on training and leadership. Promotions and added responsibilities within the agencies I've worked for, the experience and knowledge gained interacting with people personally and professionally coupled with the supervisory positions, all help to form my ability to effectively lead an agency.

#### HOW DO YOU, AS A STATE AGENCY, DIFFER FROM A MUNICIPAL AGENCY? SHARE YOUR DUTIES OF WHICH MANY PEOPLE MAY NOT BE AWARE.

Public safety and security to the Kentucky Horse Park, spectators and guests is our primary goal.

The first and most obvious difference would be the governing body, unlike a county or municipal agency where the governing body is the city council or fiscal court. The Kentucky Horse Park is governed by the commonwealth, Kentucky Tourism, Arts and Heritage Cabinet. At 1,200 plus acres, we are the largest state-owned tourist attraction in the commonwealth. The Kentucky Horse Park is a very unique place to work in law enforcement. Simply put, we have the daily population of a small city that is constantly changing. We have more than 100 equine events that will involve as few as one or two thousand spectators in the small shows and events, to our large events that will have 30 to 40 thousand spectators, along with close to 100 non-equine events and a large full-service year-round campground. This equates to more than one million visitors annually to the park. With such a diverse population, it presents very unique challenges to our officers and agency, and makes public relations a critical part of our law enforcement duties.

#### HOW IMPORTANT IS ATTITUDE, PUBLIC SERVICE AND COMMUNICATION IN YOUR WORK ENVIRONMENT?

Attitude is the most important personal demeanor for anyone. Our attitude governs the way we accomplish any task, and is the basis for everything we do, from job performance to interaction with the people we come in contact with on a daily basis. How we are perceived is influenced by our attitude and professionalism.

Public service is the basis for our profession. We can never forget we are here to serve,

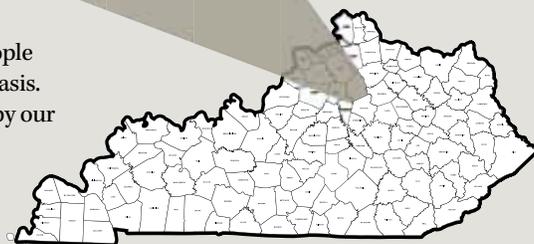
from enforcement to crime prevention, everything we do is service oriented, the public we serve not only expects it, they demand it.

Communication to me is public relations. We, as chiefs and sheriffs, and law enforcement in general, have a tendency to down play the importance of public relations and communicating to the public what we do and why. If the information someone is requesting is not case sensitive or restricted, share the information. It can only help your image. It appeases the person you are talking to, and could gain you valuable information in the future, and improves the perception of your agency with the public.

#### WHAT IS THE OVERALL THEME OF YOUR DEPARTMENT?

Public safety and security to the Kentucky Horse Park, spectators and guests is our primary goal. While traffic enforcement and crime prevention is our function, we have the added responsibility of ensuring that our guests, have a positive experience during their time at the park, and leave looking forward to returning. We accomplish this by maintaining a highly visible presence and interacting with the public.

Our mounted officers are our most unique resource for public relations and crime prevention and are out as much as possible interacting with our guests. 🐎





## The Dead Stroll\*

Set in Louisville in the 1960s, Edward Mercer's first crime novel opens on Dixie Highway in an area known as "the Stroll." The clock rolls back to a time when the Star Gas Station at the corner of Dixie and Osage Avenue is bustling, long before it became the trash-strewn vacant lot that exists there now. Fort Knox soldiers look for action as prostitutes walk the streets, unaware they are being stalked by a serial killer. Tension builds throughout the story, fueled not only by the killer, but also by the racial conflicts of the 1960s. Police are the lightning rod for all the anger and violence spilling out of the black

community. Scott McAllister, a young police officer just beginning his career with the Louisville Division of Police, is rapidly introduced to the dangers and stresses of police work. He must adapt quickly to the violent world in which he now lives.

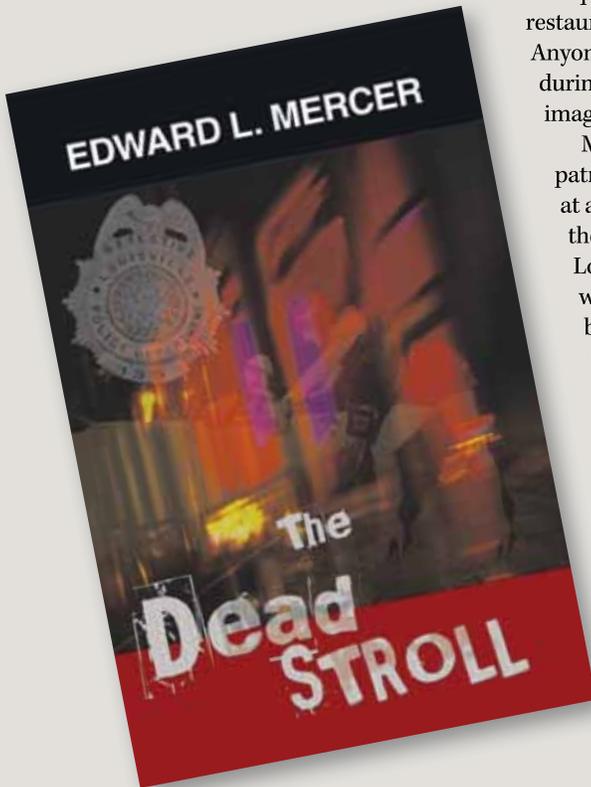
Mercer's keen insight into the lives and problems of police work is real. His résumé includes a long history with the Louisville Police Homicide Unit, eventually retiring as the chief of detectives. The story is filled with references to the day-to-day lives of patrol officers and detectives of LPD. The setting is completely accurate, from the references of the offices in LPD Headquarters to the streets and restaurants in Louisville in the 1960s. Anyone who spent time in Louisville during those days will feel the imagery come to life.

McAllister quickly learns the patrol officer's responsibilities at a homicide scene as he rides the tough neighborhoods of Louisville's west end. He works with good cops and bad, hard boiled and fearless along with cowardly and crooked. He tries to do his best, but is frustrated by a corrupt patrol sergeant and a system that seems to be designed to fail. Then McAllister meets homicide detective John Craig. Craig is experienced and reliable, and McAllister sees a ray of light in his future.

McAllister and Craig meet after work for a beer and Craig gives him the skinny on how politics flow inside the police department. He warns McAllister to watch his back, while encouraging him to set his sights on an assignment in homicide.

As the gruesome murders of prostitutes continue, the racial tensions of the civil rights era explode. Officers are targeted by race-baiting white hecklers and militant blacks. Black officers are hit the hardest, caught between angry black protesters, white hecklers and racist commanding officers. City hall is involved with corruption reaching into the highest levels. McAllister and Craig press on, juggling personal lives and relationships with the crushing pressure of the murder investigations. The action continues with twists and turns before coming to an exciting pinnacle.

As Mercer points out, the detectives worked without the tools cops today take for granted. No cell phones, in-car computers, word processors or DNA evidence. Shoe leather and the ability to get information from witnesses and informants is how homicide cases were solved. The Dead Stroll is a thrilling look inside a gritty homicide investigation. You will feel the steam of the hot summer night as you ride with McAllister in a big black Dodge police cruiser, minus air conditioning. Craig's long hours, political sure-footedness and underlying knowledge will keep you wound up in the story. It is a testament to the tenacity and hard work of the police officers and detectives everywhere. 🍷



\*A fiction novel by Edward Mercer, AuthorHouse, Bloomington, Indiana, 2011

# STRANGE STORIES FROM THE BEAT

## »» "TASER me, bro" says alleged boat thief, so police do

Police complied with a Florida man's request to tase him after he tried to steal a boat.

Officers ordered the man and his friend back to the dock, but he refused, cursed at the deputies and took off his clothes. The man was caught, naked, in the woods and put in the back of a patrol car, where he started kicking his friend. After authorities demanded he stop, he refused, saying, "TASER me. TASER me, bro."

Police did exactly that. Later, he said he was sorry for his behavior and thanked police for using the TASER.



## »» Man robs martial arts expert, gets beaten, shot

A convicted felon attempted to hold up a man who turned out to be a martial arts expert and ultimate fighter. Even after the driver gave up his money, he was told to get out of the car. The victim saw an opportunity and grabbed control of the gun, causing the suspect to shoot himself in the ankle. The victim was able to pin down the perpetrator until law enforcement arrived, finding the robber with cuts and bruises on his face.



## Frosty the Snowman arrested at parade

A man in a Frosty the Snowman costume was arrested during an annual Christmas parade in Maryland after scuffling with police and kicking at a police dog.

The man became agitated when a dog-handling officer tried to escort him away from the crowd.

"Frosty" is accused of taking off the head portion of the costume and hitting the officer in the face with it.

"Snowmen are good; they should not be arrested," said the man, who was charged with assault and disorderly conduct.



## Florida woman flies into rage after father denies her potato salad

A Florida woman was so enraged that her father denied her some of his potato salad, she allegedly threatened him with a large kitchen knife.

The 45-year-old woman has been charged with aggravated assault with a deadly weapon for repeatedly waving a knife at her 80-year-old father.

Police say her father grabbed a chair to defend himself as he called the authorities. Deputies overheard her on the phone asking her father to drop charges, which led authorities to add another charge of tampering with a victim.



## Beezow Doo- Doo Zopittybop-Bop-Bop arrested

Beezow Doo-Doo Zopittybop-Bop-Bop was arrested for carrying a concealed knife, possession of drug paraphernalia, possession of marijuana and a probation violation.

According to a police news release, residents near a park called police to report excessive drinking and drug use. Officers contacted a subject they had previous dealings with, identified as Beezow Doo-Doo Zopittybop-Bop-Bop. Court records show that Zopittybop-Bop-Bop legally changed his name last year.



»» **IF YOU HAVE ANY**

funny, interesting or strange stories from the beat, please send them to [jimd.robertson@ky.gov](mailto:jimd.robertson@ky.gov)



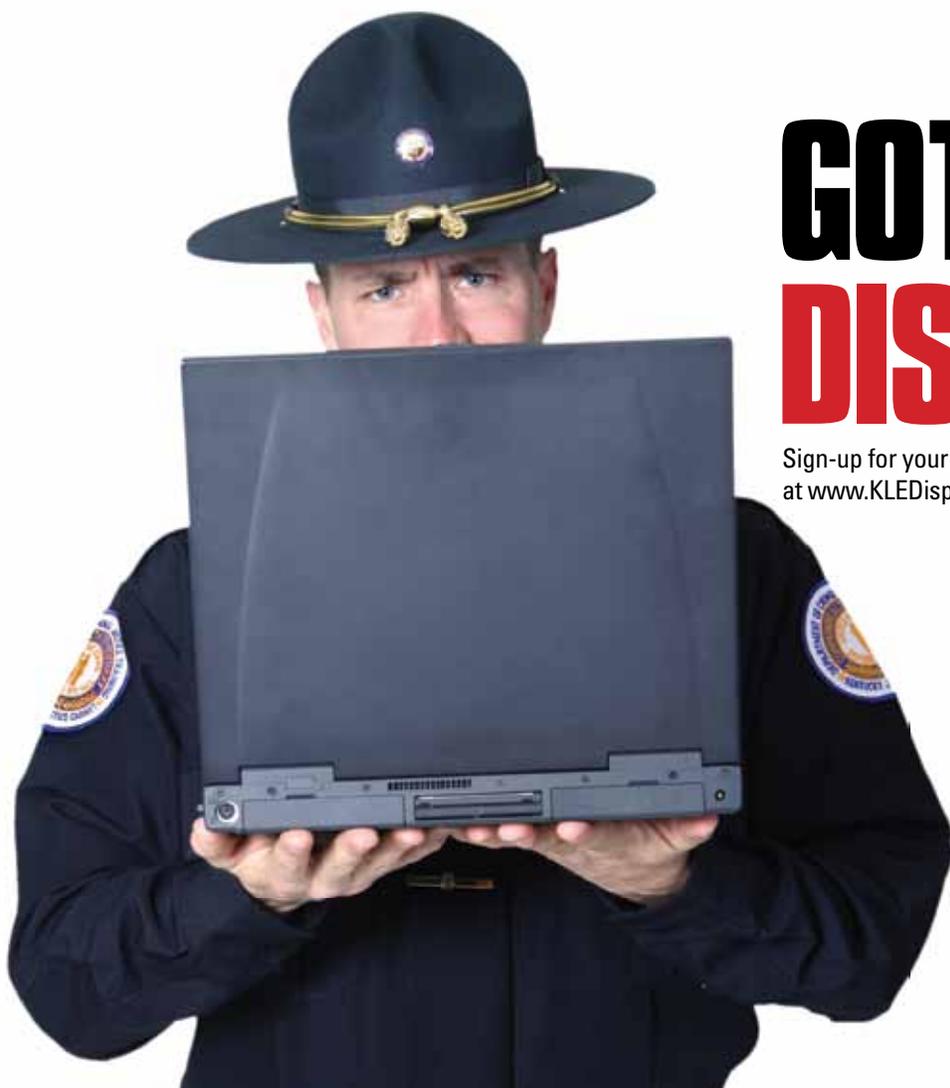
**KENTUCKY**

# LAW ENFORCEMENT

Department of Criminal Justice Training  
Kentucky Justice and Public Safety Cabinet

Funderburk Building, Eastern Kentucky University  
521 Lancaster Avenue  
Richmond, KY 40475-3102

615-010



# **GOT** ...current information geared specifically to help you improve performance and advance your law enforcement career. **DISPATCHES?**

Sign-up for your free monthly Kentucky Law Enforcement Dispatches  
at [www.KLEDispatches.ky.gov](http://www.KLEDispatches.ky.gov)